

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.12.401 pertaining to the) PROPOSED AMENDMENT
increase of laboratory fees)

TO: All Concerned Persons

1. On September 28, 2023, at 2:00 p.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rule. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/82239367655?pwd=ODMrT3NMQzE0ZFV0djhBSzJZUXJIUT09>, meeting ID: 822 3936 7655, and password: 559022; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 822 3936 7655, and password: 559022. Find your local number: <https://mt-gov.zoom.us/j/82239367655>.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on September 14, 2023, to advise us of the nature of the accommodation that you need. Please contact Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

37.12.401 LABORATORY FEES FOR ANALYSES (1) remains the same.

(2) The department will maintain a list of all tests available from the lab and the price of each test. The department adopts and incorporates by reference the Public Health Laboratory Testing Fee Schedule and the Environmental Laboratory Testing Fee Schedule Laboratory Test Fee List effective March 1, 2021, December 1, 2023, which ~~are~~ is available on the web site of the Department of Public Health and Human Services at <http://dphhs.mt.gov/publichealth/LaboratoryServices/PublicHealthLabTesting> <https://dphhs.mt.gov/publichealth/LaboratoryServices/index>, and by mail upon request to the lab at the Department of Public Health and Human Services, Public Health and Safety Division, P.O. Box 6489, Helena, MT 59604-6489.

(3) and (4) remain the same.

AUTH: 50-1-202, MCA

IMP: 50-1-202, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.12.401 to increase fees that the Laboratory Services Bureau charges for services provided by the Montana Public Health and Environmental Laboratories.

The Laboratory Services Bureau is primarily a fee for service-funded operation although some general funds and federal grant support do contribute to maintaining operational infrastructure. The laboratories rely on numerous commercial suppliers and manufacturers of laboratory services, instruments, and consumables to operate, most of whom have increased their fees on an annual basis.

The Laboratory Services Bureau has not raised fees for over five years. Without the ability to adjust fees, the laboratory will not be able to maintain critical services provided by the state as the cost of operations has steadily increased over the past five years. There is also an increasing amount of laboratory services that are performed for public health purposes that are not revenue generating. The proposed fee changes will be effective December 1, 2023.

Copies of the proposed fee schedules are located at:
<https://dphhs.mt.gov/publichealth/LaboratoryServices/index>.

Fiscal Impact

The proposed increase in fees will impact approximately 1,850 health care providers and environmental services clients. The proposed fee changes are not a uniform across the board percent increase, but many laboratory testing service fees will increase between six and ten percent. Due to the varying percentages of each fee increase and the fluctuating number of tests ordered by clients each year, the department is unable to provide an estimate of the anticipated total amount of revenue that will be generated by the fee increase. The proposed fees are comparable to those of other laboratory service providers in those instances where competitive services exist.

5. The department intends to adopt this proposed rule amendment effective December 1, 2023.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov, and must be received no later than 5:00 p.m., October 6, 2023.

7. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 6 above.

9. An electronic copy of this notice is available on the department's web site at <https://dphhs.mt.gov/LegalResources/administrativerules>, or through the Secretary of State's web site at <http://sosmt.gov/ARM/register>.

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ Robert Lishman
Robert Lishman
Rule Reviewer

/s/ David Gerard
David Gerard, Deputy Director
Department of Public Health and Human
Services

Certified to the Secretary of State August 29, 2023.