

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 37.85.105 pertaining to) PROPOSED AMENDMENT
updating Medicaid and non-Medicaid)
provider rates, fee schedules, and)
effective dates)

TO: All Concerned Persons

1. On January 12, 2024, 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/84114854263?pwd=QmRYb2lQNhJTIowbmRlYU3Wi9GUT09>, meeting ID: 841 1485 4263, and password: 634074; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 841 1485 4263, and password: 634074. Find your local number: <https://mt-gov.zoom.us/u/kdVHbVRxeQ>.

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 December 29, 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:

37.85.105 EFFECTIVE DATES, CONVERSION FACTORS, POLICY ADJUSTERS, AND COST-TO-CHARGE RATIOS OF MONTANA MEDICAID PROVIDER FEE SCHEDULES (1) and (2) remain the same.

(3) The department adopts, and incorporates by reference, the fee schedule for the following programs within the Health Resources Division, on the date stated.

(a) The inpatient hospital services fee schedule and inpatient hospital base fee schedule rates including:

(i) the APR-DRG fee schedule for inpatient hospitals, as provided in ARM 37.86.2907, effective ~~October 1, 2022~~ October 1, 2023; and

(ii) the Montana Medicaid APR-DRG relative weight values, average national length of stay (ALOS), outlier thresholds, and APR grouper version ~~39.1~~ 40.0, contained in the APR-DRG Table of Weights and Thresholds, effective ~~October 1,~~

2022 October 1, 2023. The department adopts and incorporates by reference the APR-DRG Table of Weights and Thresholds effective ~~October 1, 2022~~ October 1, 2023.

(b) through (g) remain the same.

(h) The outpatient drugs reimbursement vaccine administration fee, as provided in ARM 37.86.1105(6), will be \$21.32 for the first vaccine and \$18.65 for each additional ~~administered~~ vaccine administered on the same date of service, effective July 1, 2023.

(i) and (j) remain the same.

(k) Montana Medicaid adopts, and incorporates by reference, the Region D Supplier Manual, effective ~~July 1, 2023~~ October 1, 2023, which outlines the Medicare coverage criteria for Medicare covered durable medical equipment, local coverage determinations (LCDs), and national coverage determinations (NCDs), as provided in ARM 37.86.1802, effective ~~July 1, 2023~~ October 1, 2023. The prosthetic devices, durable medical equipment, and medical supplies fee schedule, as provided in ARM 37.86.1807, is effective ~~July 1, 2023~~ October 1, 2023.

(l) through (6) remain the same.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-125, 53-6-402, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.85.105 pertaining to updating Medicaid and non-Medicaid provider rates, fee schedules, and effective dates.

Pursuant to 53-6-113, MCA, the Montana Legislature has directed the department to use the administrative rulemaking process to establish rates of reimbursement for covered medical services provided to Medicaid members by Medicaid providers. The department proposes these rule amendments to establish Medicaid rates of reimbursement. In establishing the proposed rates, the department considered as primary factors the availability of funds appropriated by the Montana legislature during the 2023 regular legislative session, the actual cost of services, and the availability of services.

Proposed changes to provider rates that are the subject of this rule notice, including rates in fee schedules and rates in provider manuals, can be found at <https://medicaidprovider.mt.gov/proposedfs>.

ARM 37.85.105 Effective Dates, Conversion Factors, Policy Adjusters, And Cost-To-Charge Ratios of Montana Medicaid Provider Fee Schedules

(3)(a) Inpatient Hospital Services Rates

The House Bill (HB) 2 Narrative for the 2025 biennium provides for an increase appropriation from the 2023 biennium for Medicaid services provided by non-critical access hospitals in an amount equivalent to a 4.0% provider rate increase. The

provider rate increase for inpatient non-critical access hospital services is contingent on the department's evaluation of the Upper Payment Limit methodology. The department has completed the Upper Payment Limit demonstration, which has been approved by the Centers for Medicare & Medicaid Services, and the demonstration confirms Montana Medicaid provider payments do not exceed the Upper Payment Limit.

The department proposes a 5.3% increase to inpatient hospital reimbursement, effective from October 1, 2023. The increase will be applied over a 9-month period, instead of over 12 months. The projected outcome of these changes is a 4.0% increase to inpatient hospital reimbursement during SFY 2024.

The department proposes to adopt Version 40.0 of the 3M APR-DRG grouper, effective October 1, 2023. This grouper update includes changes to DRG relative weights, average lengths of stays, and adds or deletes some DRGs. The department proposes the following base rates:

General Hospitals: \$5,660
Centers of Excellence: \$8,430
Inpatient Rehab Facilities: \$6,790
Long Term Acute Care Hospitals: \$7,640

(3)(h) The department proposes changing language relating to vaccine administration to clarify the rule to ensure it reflects existing practice. This proposed amendment does not change the benefit or reimbursement for vaccines.

(3)(k) Prosthetic Devices, Durable Medical Equipment, and Medical Supplies

The department proposes to update the fee schedule date for prosthetic devices, durable medical equipment, and medical supplies to October 1, 2023. This update is necessary to ensure the department can implement CMS quarterly updates for these services.

Fiscal Impact

The following table displays the anticipated financial impact during SFY 2024, and the number of providers affected by the proposed amendments.

Provider Type	SFY 2024 Budget Impact (Federal Funds)	SFY 2024 Budget Impact (State Funds)	SFY 2024 Budget Impact (Total Funds)	Active Provider Count
Durable Medical Equipment	\$0	\$0	\$0	525
Hospitals – Inpatient	\$5,357,454	\$1,586,959	\$6,944,413	471

5. The department intends these amendments to apply retroactively to October 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., January 19, 2024.

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.

12. Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies, make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

The department has determined that the proposed program changes presented in this notice are not appropriate for performance-based measurement and therefore are not subject to the performance-based measures requirement of 53-6-196, MCA.

/s/ Brenda K. Elias
Brenda K. Elias
Rule Reviewer

/s/ Charles T. Brereton
Charles T. Brereton, Director
Department of Public Health and Human
Services

Certified to the Secretary of State December 12, 2023.