

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 37.87.2203 pertaining to) PROPOSED AMENDMENT
changes to the non-Medicaid services)
provider manual)

TO: All Concerned Persons

1. On June 29, 2017, at 2:30 p.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rule.

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 June 21, 2017, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, 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 dphhslegal@mt.gov.

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

37.87.2203 NON-MEDICAID SERVICES PROGRAM (1) and (2) remain the same.

(3) The department adopts and incorporates by reference the CMHB's Non-Medicaid Services Program Provider Manual, dated ~~October 1, 2015~~ August 5, 2017 (the Manual), which sets forth the requirements and limitations of the CMHB's Non-Medicaid Services Program.

(4) The CMHB Non-Medicaid Services Program for youth with serious emotional disturbance must be delivered in accordance with the requirements and limitations of the Manual. A copy of the Manual may be obtained from the Department of Public Health and Human Services, Developmental Services Division, Children's Mental Health Bureau, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604 or at <http://dphhs.mt.gov/dsd/CMB/Manuals.aspx>.

AUTH: 53-2-201, 53-6-113, 53-21-703, MCA

IMP: 53-1-601, 53-1-602, 53-1-603, 53-2-201, 53-21-701, 53-21-702, MCA

4. STATEMENT OF REASONABLE NECESSITY

The department proposes to amend ARM 37.87.2203 to reflect proposed revisions to the Children's Mental Health Bureau (CMHB) Non-Medicaid Services Provider Manual (the Manual), which was adopted and incorporated by reference into ARM 37.87.2203, effective October 1, 2015, under MAR Notice No. 37-713.

1. The Manual has had general comprehensive revisions of layout, formatting, and nonsubstantive grammar changes, which are intended to improve navigation and reading of the manual.
2. There are new financial eligibility limits for Room and Board Account funding and System of Care Account funding. Youth whose families have countable family income above 275% federal poverty level (FPL) will no longer be eligible for this funding.
3. There is new language indicating that for room and board funding for therapeutic group home (TGH), youth enrolled in Healthy Montana Kids (HMK)/Children's Health Insurance Program (CHIP) must have a therapeutic services authorization for TGH from HMK's third party administrator. HMK Extended Mental Health Benefit status will not be required for eligibility for non-Medicaid services funding.
4. Eligibility requirements for System of Care Account funding are clarified to reflect that the youth must be enrolled in HMK/Medicaid and under age 18.
5. Additional language has been included to clarify the permissible uses for non-Medicaid funding.

The proposed revisions to the manual are necessary because in state fiscal years (SFY) 2016 and 2017 available funding for non-Medicaid services was exhausted about three months prior to the end of the SFY. The proposed tightened financial eligibility limits for Room and Board Account and System of Care Account funding are an effort to keep funding available for use for the entire SFY and to avoid the need for wait lists and denials due to lack of funds.

The revisions to the requirement for authorization for therapeutic group home (TGH) room and board funding for youth with HMK/CHIP and the removal of Extended Mental Health Benefit status as an eligibility requirement for non-Medicaid services were included to reflect actual current practice, per request of the HMK Mental Health Program Officer.

Finally, the department proposes amending the effective date of the revised Manual to August 5, 2017.

The department makes the proposed Manual revisions and rule amendment only after having given careful consideration to (a) its current internal policies and the Manual in relationship to the affected administrative rules; (b) feedback received from providers, program participants, and staff from other divisions within the department regarding the need for greater clarity in the manual; and (c) the

department's required periodic review of its administrative rules and policy manuals. The department did explore alternatives to the above-described actions, but as the intended actions clarify and improve operational procedures in the operation of its Non-Medicaid Services Program, the department contends the proposed Manual and rule amendment are the most efficient means of meeting its program goals.

Fiscal Impact

There is no anticipated fiscal impact resulting from the proposed rulemaking and Manual revisions. There is a fixed amount of funding for the non-Medicaid Services. The proposed changes to financial eligibility requirements are projected to help the funding last for the full state fiscal year.

The proposed rulemaking is estimated to affect: Medicaid-eligible youth with SED and their families with countable family income above 275% FPL. The youth will no longer qualify for non-Medicaid services funding.

5. 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: Kenneth Mordan, 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 dphhslegal@mt.gov, and must be received no later than 5:00 p.m., July 7, 2017.

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

7. 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 5 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

10. 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.

11. 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/ Sheila Hogan
Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State May 30, 2017.