

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

In the matter of the repeal of ARM)	NOTICE OF PROPOSED REPEAL
37.57.101, 37.57.102, 37.57.105,)	
37.57.106, 37.57.109, 37.57.110,)	
37.57.111, 37.57.112, 37.57.117, and)	
37.57.118 pertaining to the children's)	
special health services financial)	NO PUBLIC HEARING
assistance program)	CONTEMPLATED

TO: All Concerned Persons

1. On May 23, 2016, the Department of Public Health and Human Services proposes to repeal the above-stated rules.

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 May 13, 2016, 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 MT 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

3. The department proposes to repeal the following rules:

37.57.101 PURPOSE OF RULES found on page 37-12561 of the Administrative Rules of Montana.

AUTH: 50-1-202, MCA
IMP: 50-1-202, MCA

37.57.102 DEFINITIONS found on page 37-12562 of the Administrative Rules of Montana.

AUTH: 50-1-202, MCA
IMP: 50-1-202, MCA

37.57.105 GENERAL REQUIREMENTS FOR CSHS FINANCIAL ASSISTANCE found on page 37-12567 of the Administrative Rules of Montana.

AUTH: 50-1-202, MCA
IMP: 50-1-202, MCA

37.57.106 ELIGIBILITY FOR CSHS FINANCIAL ASSISTANCE found on page 37-12568 of the Administrative Rules of Montana.

AUTH: 50-1-202, MCA
IMP: 50-1-202, MCA

37.57.109 APPLICATION PROCEDURE FOR CSHS FINANCIAL ASSISTANCE found on page 37-12575 of the Administrative Rules of Montana.

AUTH: 50-1-202, MCA
IMP: 50-1-202, MCA

37.57.110 CONDITIONS AND SERVICES FOR CSHS FINANCIAL ASSISTANCE found on page 37-12576 of the Administrative Rules of Montana.

AUTH: 50-1-202, MCA
IMP: 50-1-202, MCA

37.57.111 PAYMENT LIMITS AND REQUIREMENTS found on page 37-12579 of the Administrative Rules of Montana.

AUTH: 50-1-202, MCA
IMP: 50-1-202, MCA

37.57.112 INFORMAL RECONSIDERATION PROCEDURE found on page 37-12581 of the Administrative Rules of Montana.

AUTH: 50-1-202, MCA
IMP: 50-1-202, MCA

37.57.117 CSHS PROVIDERS RECEIVING CSHS FUNDS: REQUIREMENTS found on page 37-12591 of the Administrative Rules of Montana.

AUTH: 50-1-202, MCA
IMP: 50-1-202, MCA

37.57.118 PROGRAM RECORDS found on page 37-12593 of the Administrative Rules of Montana.

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 repeal ARM 37.57.101, 37.57.102, 37.57.105, 37.57.106, 37.57.109, 37.57.110, 37.57.111, 37.57.112, 37.57.117, and 37.57.118. This proposed repeal will

eliminate the Children's Special Health Services (CSHS) financial assistance program.

The program currently serves approximately 20 families; there has been a steady decline in enrollment in the last several years. In state fiscal year (SFY) 2015 a total of \$11,351 (a maximum of \$2k per person) was approved pay for copays, services, medical equipment, and prescription drugs not covered by the child's private health insurance.

The CSHS financial assistance program follows the same poverty guidelines as the Healthy Montana Kids (HMK) program. The decline in financial assistance program enrollment is likely attributable to the increase of federal poverty guidelines for Healthy Montana Kids and the subsequent enrollment of children in that program. The families currently served by the CSHS financial assistance program have private insurance and have not applied for HMK; although, since the guidelines for CSHS financial assistance are equal, it would stand to reason that they would qualify for HMK.

The families have been notified and encouraged to apply for HMK. If the families qualify for HMK, the services, etc. that CSHS is currently covering through the financial assistance program should be covered by HMK, thereby eliminating the financial impact on the families. If families do not qualify, or they choose not to apply, the maximum impact to families will be \$2,000 per state fiscal year. None of the families currently enrolled have expressed displeasure with this rule change. Many have applied for and been granted HMK coverage for their children.

The funds saved by CSHS will be redirected to programs that can be utilized by all children and youth with special healthcare needs in Montana and are not restricted by federal poverty guidelines.

ARM 37.57.118 refers to specialty clinic records. CSHS is no longer directly coordinating clinics' services so this rule will be repealed. CSHS will retain current records according to appropriate retention schedule.

Fiscal Impact

If families currently enrolled in the CSHS financial assistance program qualify for Healthy Montana Kids (HMK), the financial impact on families will be very little or none. This is because the services, equipment, etc., that CSHS currently pays for, should be covered by HMK. If families do not qualify, or they choose not to apply, the maximum impact to families will be \$2,000 per eligible child per state fiscal year. For those currently enrolled this will impact approximately 20 families with a maximum cumulative cost of approximately \$40,000.

5. The department intends to apply the repeal of these rules retroactively to March 31, 2016. A retroactive application of the proposed rule does not result in a negative impact to any affected party.

6. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Kenneth Mordan, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena MT 59604-4210, no later than 5:00 p.m. on May 20, 2016. Comments may also be faxed to (406) 444-9744 or e-mailed to dphhslegal@mt.gov.

7. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Kenneth Mordan at the above address no later than 5:00 p.m., May 20, 2016.

8. If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be two persons based on 20 families in this program.

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

10. 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 this 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.

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

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

13. 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/ Nicholas Domitrovich
Nicholas Domitrovich
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State April 11, 2016.