

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

In the matter of the adoption of New Rule I and amendment of ARM 37.85.212 pertaining to adding a new provider called mobile imaging/portable x-ray provider type and reimbursement for state fiscal year 2017)	NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION AND AMENDMENT
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TO: All Concerned Persons

1. On November 17, 2016, 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 adoption and amendment of 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 November 9, 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, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I MOBILE IMAGING/PORTABLE X-RAY SUPPLIER (1) Any provider that is enrolled in the federal Medicare program as a Mobile Imaging Provider/Portable X-Ray Supplier may also enroll in the Montana Medicaid program as a Mobile Imaging Provider/Portable X-Ray Supplier.

(2) A Mobile Imaging Provider/Portable X-Ray Supplier enrolled in the Montana Medicaid program is governed by 42 CFR 486.100, 486.102, 486.104, 486.106, 486.108, and 486.110. The department adopts and incorporates by reference 42 CFR 486.100, 486.102, 486.104, 486.106, 486.108, and 486.110. Copies of 42 CFR 486.100, 486.102, 486.104, 486.106, 486.108, and 486.110 are available upon request from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(3) In addition to 42 CFR 486.100, 486.102, 486.104, 486.106, 486.108, and 486.110, a Mobile Imaging Provider/Portable X-Ray Supplier enrolled in the Montana Medicaid program must comply with all rules generally applicable to Medicaid providers.

(4) A Mobile Imaging Provider/Portable X-Ray Supplier must be reimbursed for diagnostic services performed under ARM 37.85.406 and 37.86.105.

(5) The definitions found in the introduction to Physicians Current Procedural Terminology, fourth edition (CPT4), published by the American Medical Association of Chicago, Illinois and adopted by reference at ARM 37.86.101, set forth meanings of terms commonly used by the Montana Medicaid program in implementation of the program's Mobile Imaging Provider/Portable X-Ray Supplier fee schedule.

(6) The Physician-Related Services Manual governing the administration of the Mobile Imaging Provider/Portable X-Ray Supplier program adopted at ARM 37.86.101 applies to a Mobile Imaging Provider/Portable X-Ray Supplier.

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

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, 53-6-125, MCA

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

37.85.212 RESOURCE BASED RELATIVE VALUE SCALE (RBRVS)
REIMBURSEMENT FOR SPECIFIED PROVIDER TYPES (1) For purposes of this rule, the following definitions apply:

(a) remains the same.

(b) "Conversion factor" means a dollar amount by which the relative value units, or the anesthesia units for anesthesia services, are multiplied in order to establish the RBRVS fee for a service. The effective date and conversion factor amounts are adopted at ARM 37.85.105(2). There are four conversion factor categories:

(i) physician services, which applies to the following health care professionals listed in (2): physicians, mid-level practitioners, podiatrists, public health clinics, independent diagnostic testing facilities (IDTF), mobile imaging/portable X-ray providers, qualified Medicare beneficiary (QMB) and early and periodic screening, diagnostic and treatment (EPSDT) chiropractors, laboratory and x-ray services, family planning clinics, and dentists providing medical services;

(1)(b)(ii) through (1)(i) remain the same.

(2) Services provided by the following health care professionals will be reimbursed in accordance with the RBRVS methodology set forth in (3):

(a) through (t) remain the same.

(u) birth attendants; ~~and~~

(v) EPSDT orientation and mobility specialists; and

(w) mobile imaging/portable x-ray providers.

(3) through (10) remain the same.

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

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, 53-6-125, MCA

5. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing the adoption of NEW RULE I and amendments to ARM 37.85.212 regarding the formation of a new provider type, Mobile Imaging/Portable X-Ray Supplier. Mobile Imaging/Portable X-Ray Suppliers provide diagnostic imaging services at patients' locations - more often residences, group living facilities, and nursing homes rather than in a traditional clinical setting, such as a doctor's office or hospital.

New Rule I

Because federal Medicare permits the provision of mobile imaging/portable x-ray services, the department finds it necessary to include this new independent provider type into the Montana Medicaid program so these providers can provide services and bill under the program. The adoption of NEW RULE I is necessary to define provider enrollment, governing rules, billing terms, and reimbursement for the new provider type.

ARM 37.85.212

It is necessary to amend ARM 37.85.212 to include the mobile imaging/portable x-ray providers as their services will be reimbursed in accordance with the RBRVS methodology.

Fiscal Impact

The proposed adoption of NEW RULE I and the amendment of ARM 37.85.212 have no fiscal impact as the Montana Medicaid program already reimburses for these services under the RBRVS fee schedule.

6. The department intends to adopt these rule amendments effective January 1, 2017.

7. 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., November 25, 2016.

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

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 7 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 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.

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 adoption and amendment 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 because they implement federal law and, therefore, are not subject to the performance-based measures requirement of 53-6-196, MCA.

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

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

Certified to the Secretary of State October 17, 2016.