

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 37.85.204 pertaining to) PROPOSED AMENDMENT
Medicaid cost share)

TO: All Concerned Persons

1. On November 30, 2016, at 1:30 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 November 23, 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 amended provides as follows, new matter underlined, deleted matter interlined:

37.85.204 MEMBER REQUIREMENTS, COST SHARING (1) remains the same.

(2) The cost share applied to a service or item is not to exceed the ~~cost of service~~ Medicaid allowed amount.

(3) A member with income at or below 100% of the federal poverty level (FPL) is responsible for the following copayments:

(a) and (b) remain the same.

(c) pharmacy-nonpreferred brand drugs, ~~including specialty drugs~~ - \$8 per prescription;

(d) through (w) remain the same.

~~(x) home dialysis attendant services - \$4 per visit;~~

~~(y) personal assistance services - \$4 per visit;~~

~~(z)~~ (x) mental health clinic services - \$4 per visit; and

~~(aa)~~ (y) chemical dependency services - \$4 per visit; and

~~(ab) targeted case management services - \$4 per visit.~~

(4) A member with income above 100 percent of the FPL, except as noted in (a) and (b) is responsible for cost share of 10% of the provider reimbursed amount.

A member is responsible for cost share for outpatient pharmacy services as follows:

(a) remains the same.

- (b) nonpreferred brand drugs, ~~including specialty drugs~~ - \$8 per prescription.
- (5) through (9) remain the same.

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

IMP: 53-6-101, 53-6-113, 53-6-141, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.85.204, regarding Medicaid cost sharing requirements. These changes implement the Alternative Benefits Plan for the health care services delivered by the Montana Medicaid program.

The department proposes to amend various copayment and cost-sharing requirements for consumers eligible for the state-administered Medicaid program. The department also proposes to amend the services exempt from the cost sharing requirements.

The department is proposing these rule changes to align the rule with existing practice. Medicaid members currently are not charged cost-sharing charges for home dialysis attendant services, personal assistance services, or targeted case management services. These services are preventative services, and the department has deemed it appropriate to exclude them from cost-sharing. Additionally, the department proposes to update terminology from "cost-of-service" to "Medicaid allowed amount."

Fiscal Impact

Medicaid providers will not be adversely impacted by the proposed amendment because the department will continue to make up any difference in payment to the Medicaid providers.

5. The department intends to apply this rule amendment retroactively to June 1, 2016. A retroactive application of the proposed rule amendments does not result in a negative impact to any affected party.

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: 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., December 8, 2016.

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

9. 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.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was notified by e-mail on October 28, 2016.

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 appropriate for performance-based measurement and therefore are subject to the performance-based measures requirement of 53-6-196, MCA.

The following matrix presents the departments intended performance monitoring schematic.

Principal Reason for the Proposed Amendment	Measurement	Data Collection Methods/Metrics	Period of Measurement
Provide coverage of health care services for low-income Montanans	HELP ACT enrollment	Track enrollment via eligibility determination system (CHIMES)	Quarterly
Provide greater value for the tax dollars spent on the Montana Medicaid program	Ratio of state and federal funds expended	Track expenditure by funding source via the state accounting system	Annually
Provide incentives that encourage Montanans to take greater responsibility for their personal health	Health Behavior Activities	Track the level of participant engagement in health behavior activities via the department's data systems	Quarterly

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

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

Certified to the Secretary of State October 31, 2016.