

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

In the matter of the adoption of New ) NOTICE OF ADOPTION AND  
Rules I through III, and the ) AMENDMENT  
amendment of ARM 37.86.4401, )  
37.86.4402, 37.86.4406, 37.86.4412, )  
37.86.4413, and 37.86.4420 )  
pertaining to rural health clinics and )  
federally qualified health centers )

TO: All Concerned Persons

1. On July 26, 2019, the Department of Public Health and Human Services published MAR Notice No. 37-877 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 1017 of the 2019 Montana Administrative Register, Issue Number 14. On September 20, 2019, the department published a notice of extension of comment period on proposed adoption and amendment at page 1603 of the 2019 Montana Administrative Register, Issue Number 18.

2. The department has adopted New Rule I (37.86.4408), New Rule II (37.86.4409), and New Rule III (37.86.4410) as proposed. The department has amended the above-stated rules as proposed.

3. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: Several commenters expressed support of the modification of change in scope of service process and Alternative Payment Methodology option.

RESPONSE #1: The department thanks the commenters for their support.

COMMENT #2: One commenter requested to reduce the advance notice of a prospective change in scope application from 120 days to 90 days.

RESPONSE #2: The rule provides for 120 days' notice in advance of the prospective change in scope of service to ensure the department has sufficient time to review the application and calculate the temporary PPS rate prior to the start of the new service. The effective date for a temporary PPS rate in New Rule II will be the date the services are implemented, whether the application is submitted at 120 days or 90 days.

COMMENT #3: A commenter questioned why the rules require FQHCs to provide information on any changes in scope of project as defined by the federal Health Resources and Services Administration (HRSA).

RESPONSE #3: The department must ensure that the service has been approved by HRSA and that reimbursement for such service at the PPS rate is appropriate. Rural Health Clinics and Urban Indian Health Centers do not receive HRSA funding, so they are exempt from the HRSA scope of project requirement.

COMMENT #4: One commenter requested that the Administrative Rules of Montana include a defined formula for determining the incremental change in the baseline PPS rate.

RESPONSE #4: The department determined the comment is well taken and that the calculations should be published in the administrative rules. On September 10, 2019, the department filed a Notice of Extension of Comment Period on Proposed Adoption and Amendment, which proposed further amendment of ARM 37.86.4412 to include the calculation to determine the amount of an incremental change. The notice, which was published on September 20, 2019, extended the comment period to allow for comments on the proposed further amendment, although none were received.

COMMENT #5: A clear definition of a qualifying event was requested to be included in Administrative Rule and the Provider Manual.

RESPONSE #5: In (3) of New Rule I, the department explains the circumstances that a facility must demonstrate in order to satisfy the requirements for a change in scope of service. The explanations in (3)(a) through (3)(g) are sufficiently clear and unambiguous to give facilities an understanding of what constitutes a change in scope of service.

4. The department intends to apply these rules retroactively to July 1, 2019. A retroactive application of the proposed rules does not result in a negative impact to any affected party.

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

/s/ Marie Matthews for  
Sheila Hogan, Director  
Public Health and Human Services

Certified to the Secretary of State October 8, 2019.