

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 37.34.3005 pertaining to) PROPOSED AMENDMENT
migrating billing to Medicaid)
Management Information System)
(MMIS))

TO: All Concerned Persons

1. On June 28, 2019, at 11:00 a.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 18, 2019, to advise us of the nature of the accommodation that you need. Please contact Gwen Knight, 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:

37.34.3005 REIMBURSEMENT FOR SERVICES OF MEDICAID FUNDED DEVELOPMENTAL DISABILITIES HOME AND COMMUNITY-BASED SERVICES (HCBS) WAIVER PROGRAMS (1) remains the same.

(2) The department adopts and incorporates by this reference the rates of reimbursement for the delivery of services and items available through each Home and Community-Based Services Waiver Program as specified in the ~~Montana Developmental Disabilities Program Manual of Service Rates and Procedures of Reimbursement for Home and Community-Based Services (HCBS) 1915c, 0208, and 0667 Waiver Programs, effective July 1, 2018, as revised and labeled "version 3~~ Montana Developmental Disabilities Program Services Manual, effective July 1, 2019." A copy of the manual may be obtained through the Department of Public Health and Human Services, Developmental Services Division, Developmental Disabilities Program, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210 and at <http://dphhs.mt.gov/dsd/developmentaldisabilities/DDPratesinf>.

AUTH: 53-2-201, 53-6-402, MCA
IMP: 53-2-201, 53-6-402, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.34.3005, which pertains to reimbursement for services of Medicaid-funded developmental disabilities 0208 Home and Community-Based 1915(c) for Individuals with Developmental Disabilities waiver programs. Pursuant to 53-6-402, MCA, the Montana Legislature has directed the department to use the administrative rulemaking process to implement each program of home and community-based services.

The proposed rule amendment adopts and incorporates an updated manual, which would have an effective date retroactive to July 1, 2019. The updated manual:

- (1) revises rates to reflect the appropriation by the 2019 Montana Legislature;
- (2) establishes billing codes and procedures necessary to simplify the billing process and accommodate migration to a reimbursement system called Medicaid Management Information System (MMIS); and
- (3) reformats the prior manual to provide more clarity for providers and make it compliant with the Americans with Disabilities Act (ADA).

Proposed Provider Rate Changes

The department is proposing provider rate changes effective July 1, 2019, for 0208 Home and Community-Based 1915(c) for Individuals with Developmental Disabilities waiver services in accordance with the funding appropriated by the Montana Legislature during the 2019 regular session.

Additionally, some daily rates that were previously based on an hourly reimbursement would be converted to daily tier-based reimbursement. Reimbursement tiers are proposed to reflect the wide range of individual needs of members receiving congregate living and congregate work/day/retirement services. Each proposed tier encompasses a range of hours of service tied to the plan of care as outlined in a member's Individual Cost Plan. The daily rate for each proposed tier was calculated using the highest hourly rate for residential habilitation, and multiplying by the number of daily hours in that tier. Reimbursement is based on the provider meeting the individual plan of care requirements.

Further reasons for changing some services from hourly to daily rates are set forth below.

MMIS

The developmental disabilities program currently uses a system called Agency Wide Accounting and Client System (AWACS) for billing and payments, and as a data-base for maintaining client demographic information. The department is working toward migrating to MMIS for all applicable programs. MMIS will provide ease of

use and uniformity for providers and it will simplify the billing process. The department recently requested an amendment to the 0208 Home and Community-Based 1915(c) for Individuals with Developmental Disabilities waiver to seek approval for the change to daily rates, as above, to meet constraints and business rules in MMIS.

Reformatting

The department is proposing reformatting the manual to provide more clarity for providers. The proposed manual includes a table of contents and greater navigability. In addition, it is presented in a manner that can more easily be reproduced in a format compliant with the ADA.

Summary of Proposed Amendments – Developmental Disabilities Program

ARM 37.34.3005

The department proposes to amend the rule for the purposes of:

(1) Effective June 30, 2019, terminate the Montana Developmental Disabilities Program Manual of Service Rates and Procedures of Reimbursement for Home and Community-Based Services (HCBS) 1915c 0208 and Waiver Program, and now reference the Montana Developmental Disabilities Program Services Manual, effective July 1, 2019.

Fiscal Impact

The department estimates that the proposed amendment would cost approximately \$3,041,996 federal dollars and \$1,246,679 state general fund dollars.

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: Gwen Knight, 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 5, 2019.

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. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was notified by email on May 28, 2019.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule may have a positive impact on small businesses that contract with the Developmental Disability Program to deliver waiver services.

Approximately 50 percent of Developmental Disability waiver contractors have fewer than 50 full-time employees. The amendment provides a rate increase for the identified services, and therefore a probable increase in revenue. The amendment will direct providers to bill directly through the state's Medicaid system (MMIS), which allows for billing on a more frequent basis than was previously allowed. In addition, the reimbursement for congregate services has been simplified and moved to daily rates.

10. 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/ Jennifer C. Kaleczyc
Jennifer C. Kaleczyc
Rule Reviewer

/s/ Laura Smith, Deputy Director for
Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State May 28, 2019.