

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 37.85.106, 37.87.702,	)	PROPOSED AMENDMENT AND
37.87.703, 37.87.802, 37.87.805,	)	REPEAL
37.87.807, 37.87.809, 37.87.823,	)	
37.87.903, 37.87.1011, 37.87.1202,	)	
37.87.1217, 37.87.1223, 37.87.1226,	)	
37.87.1351, 37.87.1402, 37.87.1405,	)	
37.106.1902, 37.106.1906, and	)	
37.106.1935 and the repeal of ARM	)	
37.87.1313, 37.87.1314, and	)	
37.87.1315 pertaining to updates for	)	
targeted case management,	)	
outpatient therapy, and reference	)	
revisions	)	

TO: All Concerned Persons

1. On March 19, 2020, at 10:00 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 and repeal 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 March 13, 2020, to advise us of the nature of the accommodation that you need. Please contact Heidi Clark, 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 rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.85.106 MEDICAID BEHAVIORAL HEALTH TARGETED CASE MANAGEMENT FEE SCHEDULE (1) remains the same.

(2) The Department of Public Health and Human Services (department) adopts and incorporates by reference the Medicaid Behavioral Health Targeted Case Management Fee Schedule effective ~~July 1, 2019~~ March 1, 2020, for the following programs within the Developmental Services Division (DSD) and the Addictive and Mental Disorders Division (AMDD):

(a) through (3) remain the same.

AUTH: 53-2-201, 53-6-113, MCA  
IMP: 53-2-201, 53-6-101, 53-6-113, MCA

37.87.702 MENTAL HEALTH CENTER SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE (SED), DEFINITIONS For purposes of this subchapter, the following definitions apply:

(1) "Community-based psychiatric rehabilitation and support (CBPRS)" means rehabilitation services provided in home, school, and community settings for youth with serious emotional disturbance (SED) who are at risk of out of home or residential placement, or risk removal from current setting for youth under six years of age. CBPRS services are provided for a short period of time, generally 90 days or less, to improve or restore the youth's functioning in one or more of the impaired areas identified in the SED definition in ARM ~~37.87.303~~ 37.87.102. Services are provided by trained mental health personnel under the supervision of a licensed mental health professional and according to rehabilitation goals.

(2) "Comprehensive school and community treatment" is defined in ARM ~~37.86.2224~~ the manual adopted and incorporated by reference in ARM 37.87.903.

(3) through (6) remain the same.

(7) "Outpatient therapy service" is defined in ARM ~~37.87.102~~ the manual adopted and incorporated by reference in ARM 37.87.903.

(8) "Serious emotional disturbance (SED)" criteria are defined in ARM ~~37.87.303~~ the manual adopted and incorporated by reference in ARM 37.87.903.

(9) through (11) remain the same.

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

37.87.703 MENTAL HEALTH CENTER SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE (SED), COVERED SERVICES (1) Mental health center services for youth with SED include:

(a) Community-Based Psychiatric Rehabilitation and Support (CBPRS) services as ~~provided for~~ defined in ARM 37.87.704 37.87.702.

(b) through (h) remain the same.

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

37.87.802 TARGETED CASE MANAGEMENT SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE, DEFINITIONS As used in this chapter, the following terms apply:

(1) ~~"Case management services" means case management as defined in ARM 37.86.3301.~~

(2) (1) "Department" means the Department of Public Health and Human Services.

(2) "Natural supports" means relationships and supports that occur within the community in everyday life including but not limited to relationships with family members, friends, neighbors, and community acquaintances.

~~(3) "Serious emotional disturbance (SED)" is defined in ARM 37.87.303.~~

(3) "Targeted case management services (TCM)" means case management as defined in the manual adopted and incorporated by reference in ARM 37.87.903.

~~(4) "Youth" is defined in ARM 37.87.102.~~

~~(5) (4)~~ The definitions in ARM 37.86.3301 also apply when not inconsistent with this subchapter.

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

IMP: 53-1-601, 53-1-602, 53-1-603, 53-2-201, MCA

37.87.805 TARGETED CASE MANAGEMENT SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE, ELIGIBILITY (1) If otherwise eligible for Medicaid services, youth with SED may receive medically necessary targeted case management services in the community setting or when transitioning to a community setting as provided in this subchapter.

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

IMP: 53-1-601, 53-1-602, 53-1-603, 53-2-201, MCA

37.87.807 TARGETED CASE MANAGEMENT SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE, COVERED SERVICES

~~(1) Case Targeted case management services include:~~

~~(a) comprehensive assessment and periodic reassessment of an eligible individual youth and the youth's family or caregivers to determine service needs, including activities that focus on needs identification; and~~

~~(b) determination of the need for any medical, educational, social, or other services;~~

~~(c) these~~ The assessment activities include the following:

~~(i) taking youth and the youth's family or caregivers history;~~

~~(ii) identifying the needs of the individual youth and the youth's family or caregivers, and completing related documentation; and~~

~~(iii) gathering necessary information from other sources, such as family members, medical providers, social workers, and educators to make a complete assessment of the eligible individual youth.~~

~~(d) (b)~~ development and periodic revision of a specific care plan based on the information collected through the assessment that includes the following:

~~(i) specific goals and actions to address the service needs of the youth and the youth's family or caregivers, including but not limited to medical, social, and educational needs, and other services needed by the eligible individual;~~

~~(ii) activities such as ensuring the active participation of the eligible individual youth and the youth's family or caregivers in developing the goals and actions of the care plan and working with the individual, or the individual's authorized health care decision maker and others to develop those goals; and~~

(iii) a course of action designed to respond to the assessed needs of the eligible individual youth and the youth's family or caregivers.

(e) ~~(c)~~ referral and related activities, such as making referrals and scheduling appointments for the individual youth, helping the eligible individuals youth and the youth's family or caregivers obtain needed services, helping to link the individual youth and the youth's family or caregivers with medical, social, and educational providers, or other programs and services that ~~are capable of providing~~ provide needed services to address identified needs and achieve goals specified in the care plan; and

(f) ~~(d)~~ monitoring and follow-up activities, including activities and contacts necessary to ensure that the care plan is effectively implemented and adequately addresses the needs of the eligible individual youth and the youth's family or caregivers. ~~This~~ The monitoring and follow-up activities may be with the individual youth, family members or caregivers, service providers, or other entities or individuals and may be conducted as frequently as necessary, including at least one annual monitoring review to help determine whether the following conditions are met:

(i) services are being furnished in accordance with the individual's youth's care plan;

(ii) services in the care plan are adequate to meet the needs of the individual youth and youth's family or caregivers; and

(iii) changes in the needs or status of the eligible individual youth have been accommodated. Monitoring and follow-up activities include making necessary adjustments in the care plan and service arrangements with providers.

(2) ~~Case~~ Targeted case management may include contacts with noneligible individuals ~~that who~~ are directly related to the identification of the eligible individual's youth's needs and care for the purpose of helping the individual youth access services, identifying needs and supports to assist the eligible individual youth in obtaining services, providing case managers with useful feedback, and alerting case managers to changes in the eligible individual's youth's needs.

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

IMP: 53-1-601, 53-1-602, 53-1-603, 53-2-201, MCA

37.87.809 TARGETED CASE MANAGEMENT SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE, REIMBURSEMENT (1) Targeted case management (TCM) services for youth with SED will be reimbursed on a fee per unit of service basis. For purposes of this rule, a unit of service is based on a 15-minute unit increment. ~~A unit of service is a period of 15 minutes as follows:~~

(a) through (h) remain the same.

(2) Targeted case management services rendered to youth residing in a Montana county with a per capita population of fewer than 7 people per square mile are eligible to receive a frontier community differential of 115% of the current fee schedule, as provided in ARM 37.85.106.

~~(2)~~ (3) The department will pay providers of targeted case management services for youth with SED the lesser of:

(a) remains the same.

(b) the rate established in the department's Medicaid fee schedule, as adopted in ARM ~~37.85.105~~ 37.85.106.

(3) and (4) remain the same but are renumbered (4) and (5).

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

IMP: 53-1-601, 53-1-602, 53-1-603, 53-2-201, MCA

37.87.823 TARGETED CASE MANAGEMENT SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE, PROVIDER REQUIREMENTS

(1) remains the same.

(2) Targeted case management services for youth with SED must be provided by a licensed mental health center as defined in ARM 37.87.102. A mental health center must:

(a) have a current license endorsement permitting the mental health center to provide targeted case management services; and

(b) be enrolled in the Montana Medicaid program as a targeted case management services provider; ~~and~~

~~(c) contract with the department to provide targeted case management services for youth with SED.~~

(3) and (4) remain the same.

(5) ~~In addition, c~~Case management plans for youth with SED must be completed within the first 21 days of admission to targeted case management services and updated at least every 90 days or whenever there is a significant change to the youth's condition. and The case management plan must include:

~~(a) an objective to serve each youth in the least restrictive environment;~~

(a) use the standardized assessment tool approved by the department to determine the appropriate level of service intensity needed by the youth and the youth's family or caregivers;

(b) incorporate standardized assessment tool findings into the plan;

(c) support continued benefits from TCM reflected in youth service planning;

(d) reflect the least restrictive and appropriate level of care;

~~(b) (e) identification~~ identify of the strengths of the youth and the youth's family or caregivers;

~~(e) (f) include~~ a crisis response plan;

~~(d) (g) include~~ a plan for each youth age 16 1/2 and older to transition to adult mental health services; and

~~(e) (h) include~~ a discharge and transition plan from targeted case management services.

(6) Upon admission to TCM services and prior to all treatment team meetings of TCM services, the targeted case manager shall meet with the youth's family or caregivers to complete a family treatment team meeting preparation checklist and questionnaire. The checklist and questionnaire must contain and document the following components:

(a) explanation of the purpose of the treatment meeting and documentation of the youth's family or caregivers understanding;

(b) identification of natural supports in the youth's life;

(c) a notice to the family that the youth's treatment plan shall be delivered at

times and in locations that are flexible, accessible, and convenient to the youth and the youth's family or caregivers, including evenings and weekends;

(d) evaluation with the youth and the youth's family or caregivers to identify and address risks and safety concerns at home and in the school and in the community; and

(e) evaluation with the youth and the youth's family or caregivers to identify strengths that can be used as the basis of the treatment plan in the areas of school, vocational, family, social, and community functioning as well as towards meeting developmental skills and abilities.

(7) Individual treatment plans and those participating in treatment team meetings must:

(a) use language that is understandable to the youth and the youth's family or caregivers and, where necessary, translate clinical terminology including but not limited to diagnoses and acronyms into language that is understandable; and

(b) actively seek to understand and demonstrate respect for the unique and diverse backgrounds of the youth and the youth's family or caregivers including but not limited to roles, values, beliefs, races, ethnicities, sexual orientations, gender expressions, gender identities, languages, traditions, communities, and cultures.

(8) In addition to the requirements outlined in (7), individual treatment plans must include:

(a) natural supports; and

(b) a crisis plan that identifies safety concerns, potential crises, triggers, de-escalation and coping strategies, actionable stabilization steps, prevention measures, and identified supports of the youth and the youth's family or caregivers.

(9) Targeted case management providers shall share with the youth and the youth's family or caregivers baseline and updated outcome measurements including measurements of the youth's emotional and behavioral functioning, living situation, school outcomes, risk of harm to self or others, substance use, and progress toward individualized goals. Targeted case management providers shall meet with the youth and the youth's family or caregivers at least every 90 days for the purpose of sharing this information.

(10) In addition to the discharge requirements outlined in ARM 37.106.1917, a youth must be discharged from targeted case management services when treatment plan goals have been met, when the youth no longer desires targeted case management, or when the youth no longer meets the criteria for entry into targeted case management services.

(11) Mental health centers with a youth targeted case management endorsement must have policies and procedures in place to provide timely access to services for youth by:

(a) ensuring mental health centers have adequate resources to provide timely access to the standard assessment tool for intake of youth; and

(b) detailing a communication plan to the youth's family or caregivers if the youth is placed on a waitlist, including a process for referral to other services providers.

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

IMP: 53-1-601, 53-1-602, 53-1-603, 53-2-201, MCA

37.87.903 MEDICAID MENTAL HEALTH SERVICES FOR YOUTH, AUTHORIZATION REQUIREMENTS (1) remains the same.

(2) Medicaid mental health services for youth requiring approval prior to treatment, prior authorization, or continued stay authorization is reimbursed only if the youth has been determined to have a serious emotional disturbance defined in the Manual adopted and incorporated by reference in ~~(8)~~ below, which has been verified by the department or its utilization review contractor.

(3) Youth are not required to have a serious emotional disturbance to receive the following outpatient therapy services:

(a) the first ~~40~~ 24 sessions of individual, family, or both outpatient therapies per state fiscal year. Group outpatient therapy is not included in the ~~40~~24-session limit; and

(b) through (6) remain the same.

(7) In addition to the requirements contained in rule, the department has developed and published a provider manual entitled Children's Mental Health Bureau, Medicaid Services Provider Manual (Manual), dated ~~July 1, 2018~~ March 1, 2020, for the purpose of implementing requirements for utilization management. The department adopts and incorporates by reference the Children's Mental Health Bureau, Medicaid Services Provider Manual, dated ~~July 1, 2018~~ March 1, 2020. A copy of the manual may be obtained from the department by a request in writing to the Department of Public Health and Human Services, Developmental Services Division, Children's Mental Health Bureau, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210 or at <http://dphhs.mt.gov/dsd/CMB/Manuals.aspx>.

(8) and (9) remain the same.

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

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

37.87.1011 THERAPEUTIC GROUP HOME (TGH), PROVIDER REQUIREMENTS (1) remains the same.

(2) Therapeutic group home (TGH) services may be provided only by a facility which is licensed as a TGH by the department in accordance with the provisions of Title 52, chapter 2, part 6, MCA, and found in ARM 37.87.1011, 37.87.1013, 37.87.1015, and 37.87.1017, and the manual adopted and incorporated by reference in ARM 37.87.903.

(3) through (5) remain the same.

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

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

37.87.1202 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY SERVICES, DEFINITIONS As used in this subchapter, the following definitions apply:

(1) through (5) remain the same.

(6) "Psychiatric residential treatment facility (PRTF)" is defined in the Children's Mental Health Bureau ~~Medical~~ Medicaid Services Provider Manual, adopted and incorporated by reference in ARM 37.87.903.

(7) "Therapeutic Home Visit (THV)" is defined in the Children's Mental Health Bureau Medicaid Services Provider Manual, adopted and incorporated by reference in ARM 37.87.903.

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

37.87.1217 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY (PRTF) SERVICES, TREATMENT REQUIREMENTS (1) through (3) remain the same.

(4) The treatment plan and discharge plan for the youth must be reviewed at least every 30 days at the multidisciplinary treatment team meeting, and more frequently if there is a significant change in the condition of the youth. The multidisciplinary treatment team must be consistent with 42 CFR 441.156. The parent or legal representative of the youth must be invited to participate in these meetings, and given adequate notice to participate. Adequate notice means generally a week unless the condition of the youth dictates otherwise.

(5) and (6) remain the same.

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

37.87.1223 IN-STATE PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY (PRTF) SERVICES, REIMBURSEMENT (1) through (5)(b) remain the same.

(c) adult mental health center evaluations for transition age youth 17 to 18, to determine whether or not they qualify for adult mental health services and have a severe and disabling mental illness; and

(d) up to 60 consecutive days of targeted case management services for the purpose of planning the youth's transition to the community. A youth should retain the case manager the youth had prior to entry into PRTF services, if applicable. If the youth is assigned a case manager who is different from the one previous to PRTF services, the case manager must document the rationale for the change.

(6) remains the same.

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

37.87.1226 OUT-OF-STATE PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY SERVICES, REIMBURSEMENT (1) and (2) remain the same.

(3) The Montana Medicaid Program will reimburse enrolled providers directly for the following services which are not included in the out-of-state per diem rate:

(a) up to 80 units of targeted case management services, as defined in ARM 37.86.3301, per PRTF stay up to 60 consecutive days of targeted case management services for the purpose of planning the youth's transition to the community. A youth

should retain the case manager the youth had prior to entry into PRTF services, if applicable. If the youth is assigned a case manager who is different from the one previous to PRTF services, the case manager must document the rationale for the change; and

(b) and (4) remain the same.

AUTH: 53-6-101, MCA

IMP: 53-6-113, MCA

37.87.1351 INTEGRATED CO-OCCURRING TREATMENT (ICT), ELIGIBILITY (1) remains the same.

(2) The youth must have a co-occurring substance use disorder (SUD) as defined by the most current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) and a serious emotional disturbance (SED) as defined in the ~~Children's Mental Health Bureau's Medicaid Services Provider~~ manual, adopted and incorporated by reference in ARM 37.87.903~~(8)~~.

(3) remains the same.

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

IMP: 53-6-101, MCA

37.87.1402 HOME SUPPORT SERVICES (HSS) AND THERAPEUTIC FOSTER CARE (TFC), DEFINITIONS (1) and (2) remain the same.

(3) "Clinical lead" means a person who is an employee of the provider agency who is responsible for the supervision and overall provision of treatment services to youth in HSS and TFC. Effective January 31, 2014, the clinical lead must be a licensed mental health professional as defined in ARM ~~37.87.702~~ 37.87.102 or an ~~in-training practitioner as defined in ARM 37.88.901~~ individual providing in-training mental health services as defined in ARM 37.87.702.

(4) through (6) remain the same.

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

IMP: 53-2-201, 53-6-101, MCA

37.87.1405 HOME SUPPORT SERVICES (HSS) AND THERAPEUTIC FOSTER CARE (TFC), ASSESSMENTS (1) A clinical assessment consistent with ARM 37.106.1915 must be completed for each youth documenting the youth has a severe serious emotional disturbance as defined in ARM ~~37.87.303~~ 37.87.102.

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

IMP: 53-2-201, 53-6-101, MCA

37.106.1902 MENTAL HEALTH CENTER: DEFINITIONS In addition to the definitions in 50-5-101, MCA, the following definitions apply to this subchapter:

(1) through (15) remain the same.

~~(16) "Intensive case management" means the activities of a single person or team that assists individuals with mental illness to make informed choices for~~

~~community services which seek to maximize their personal abilities and enable growth in some or all aspects of the individual's vocational, educational, social, and health related environments.~~

(17) through (29) remain the same but are renumbered (16) through (28).

(29) "Targeted case management " means the activities of a single person or team that assists individuals with mental illness to make informed choices for community services which seek to maximize their personal abilities and enable growth in some or all aspects of the individual's vocational, educational, social, and health related environments.

(30) through (32) remain the same.

AUTH: 50-5-103, MCA

IMP: 50-5-103, 50-5-204, MCA

### 37.106.1906 MENTAL HEALTH CENTER: SERVICES AND LICENSURE

(1) through (3) remain the same.

(4) A licensed mental health center, with the appropriate license endorsement, may provide one or more of the following services:

- (a) youth ~~intensive~~ targeted case management;
- (b) adult ~~intensive~~ targeted case management;
- (c) through (8) remain the same.

AUTH: 50-5-103, MCA

IMP: 50-5-103, 50-5-204, MCA

### 37.106.1935 MENTAL HEALTH CENTER: CHILD YOUTH AND ADOLESCENT AND ADULT INTENSIVE TARGETED CASE MANAGEMENT

(1) In addition to the requirements established in this subchapter, each mental health center providing ~~child youth~~ and adolescent and adult ~~intensive~~ targeted case management services shall comply with the requirements established in this rule.

(2) Each mental health center providing ~~intensive~~ targeted case management program services shall:

(a) ~~employ or contract with a program supervisor, experienced in providing services to individuals with a mental illness. The program supervisor shall meet with each intensive case manager, either individually or in a group meeting, at least every 30 days. Individual supervision of case managers must be offered by the mental health center as needed and may be initiated by either the case manager or the supervisor~~ ensure each targeted case manager is meeting with a supervisor at least once per month, as necessary based on the case manager's documented skills and skill sets such as developing treatment plans, facilitating family or caregivers treatment team meetings, and educating the youth and the youth's family or caregivers about the mental health system. In addition, targeted case managers must have access to clinical consultation through the treatment team meeting;

(b) employ or contract with case managers who have the knowledge and skills needed to effectively perform targeted case management duties. Minimum qualifications for a case manager are a bachelor's degree in a human services field

with at least one year of full-time experience serving people with mental illnesses. Individuals with other educational backgrounds who, as providers, consumers, or advocates of mental health services have developed the necessary skills, may also be employed as intensive targeted case managers. The mental health center's targeted case management position description must contain equivalency provisions;

(c) train the ~~program~~ supervisor and program staff in the therapeutic de-escalation of crisis situations to ensure the protection and safety of the clients and staff. The training must include the use of physical and non-physical methods of managing clients and must be updated, at least annually, to ensure the maintenance of necessary skills;

(d) develop a written protocol for case managers and supervisors that includes a minimum of 20 hours of initial training, and 20 hours of annual continuing education. Areas of focus should include:

(i) competencies in key skill sets such as developing treatment plans, facilitating treatment team meetings, and educating the youth and the youth's family or caregivers about the mental health system; and

(ii) training on suicide prevention, including crisis and safety planning.

(d) remains the same but is renumbered (e).

(f) ensure caseload sizes are sufficiently small to permit case managers to respond flexibly to differing service needs of youth and families, including frequency of contact;

~~(e)~~ (g) develop written policies and procedures addressing the independence of the intensive targeted case manager and intensive targeted case management program. At a minimum, the policies and procedures must address:

(i) the intensive targeted case manager acting as a client's advocate in involuntary commitment proceedings;

(ii) the intensive targeted case manager's role in conflicts between the client and the mental health center or other agencies;

(iii) the ability of the intensive targeted case manager to freely advocate for services from or outside of the mental health center on behalf of the client;

(iv) and (v) remain the same.

(vi) the ability of the intensive targeted case manager to contact an advocacy organization if the case manager believes the mental health center is unresponsive to the needs of the client.

(3) The availability of intensive targeted case management services may not be made contingent upon a client's willingness to receive other services. A client suspended or excluded from other programs or services provided by the mental health center may not be restricted or suspended from intensive targeted case management services solely due to the action involving the other program or services.

(4) Intensive Targeted case management services are largely provided throughout the community rather than in an office or a facility. All contacts with clients must occur in a place that is convenient for the client. More than 50% of a case manager's in person contacts with clients must be outside of the mental health center's facility. Restrictions may not be placed on a case manager's ability to meet with a client in any reasonable location.

AUTH: 50-5-103, MCA  
IMP: 50-5-103, 50-5-204, MCA

4. The department proposes to repeal the following rules:

37.87.1313 1915(i) HOME AND COMMUNITY-BASED SERVICES (HCBS)  
STATE PLAN PROGRAM FOR YOUTH WITH SERIOUS EMOTIONAL  
DISTURBANCE: FEDERAL AUTHORIZATION AND AUTHORITY OF STATE TO  
ADMINISTER PROGRAM

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

37.87.1314 1915(i) HOME AND COMMUNITY-BASED SERVICES (HCBS)  
STATE PLAN PROGRAM FOR YOUTH WITH SERIOUS EMOTIONAL  
DISTURBANCE: REIMBURSEMENT

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

37.87.1315 1915(i) HOME AND COMMUNITY-BASED SERVICES (HCBS)  
STATE PLAN PROGRAM FOR YOUTH WITH SERIOUS EMOTIONAL  
DISTURBANCE: NOTICE AND FAIR HEARING

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

5. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.85.106, 37.87.702, 37.87.703, 37.87.802, 37.87.805, 37.87.807, 37.87.809, 37.87.823, 37.87.903, 37.87.1011, 37.87.1202, 37.87.1217, 37.87.1223, 37.87.1226, 37.87.1351, 37.87.1402, 37.87.1405, 37.106.1902, 37.106.1906, and 37.106.1935.

The department is proposing to repeal ARM 37.87.1313, 37.87.1314, and 37.87.1315.

The following summaries explain programmatic changes and the reasonable necessity for the proposed rule amendments.

Targeted Case Management for Youth with Serious Emotional Disturbances

The department's Children's Mental Health Bureau (CMHB) worked in collaboration with the Behavioral Health Alliance of Montana (BHAM) to review the targeted case management (TCM) for youth with serious emotional disturbance program and make

program changes to enhance the quality of services provided to youth and families while ensuring a fiscally sound program. The redesigned program has the following components:

- a. Medical necessity criteria. A youth is eligible for TCM services based on the complexity of the youth and family service needs or interventions, the severity of the youth's behavioral health symptoms, and the strengths, preferences, and needs within the family's capacity. This provision is found in the Children's Mental Health Bureau, Medicaid Services Provider Manual, dated March 1, 2020, which is adopted and incorporated by reference through the administrative rules.
- b. Standardized assessment tool. The department will designate a standardized assessment tool to assess the needs of the youth and family.
- c. Family engagement standards and requirements will be implemented to ensure youth and family understand treatment and participate in the TCM process.
- d. Outcome and program measurements. The department will increase the use of new and existing measurements to inform decision-making, aid in external reporting of CMHB services, and as a tool for continuous program evaluation and improvement.
- e. Increased reimbursement rates for providers of TCM services. The department proposes to adopt and incorporate by reference a revised fee schedule, dated March 1, 2020, which reflects a reimbursement rate of \$15.90 per 15-minute unit of time for TCM services. In order to promote increased statewide access to the TCM service and address the additional costs a provider incurs when serving remote communities, the revised fee schedule includes a frontier differential payment of 115% of the proposed rate, resulting in a rate of \$18.28 per unit. Providers rendering TCM services to a youth residing in a Montana county with a per capita population of fewer than 7 people per square mile will be eligible to receive the frontier differential. Forty-six of Montana's 56 counties will qualify for the frontier differential.
- f. Training and supervision of case managers. The department will require 20 hours of initial and continued training focusing on key competencies for targeted case managers. Additionally, the department proposes to define TCM caseload as being sufficiently small to permit targeted case managers to respond flexibly to varying service needs of youth and their families.

The reasonable necessity for proposing the following rule changes is to enact the redesigned TCM program, which will provide eligible youth and families greater access to enhanced services: ARM 37.85.106, 37.87.802, 37.87.805, 37.87.807, 37.87.809, 37.87.823, 37.87.1223, 37.87.1226, and 37.106.1935.

#### Outpatient Therapy Limit - Youth without a Serious Emotional Disturbance

The department proposes to increase, from 10 to 24, the maximum number of visits per year of outpatient therapy for a youth who does not have an SED diagnosis. The reasonable necessity for proposing this rule amendment is to increase the

number of treatment visits after receiving provider feedback that the current 10-session limit does not allow enough sessions to appropriately meet a youth's mental health needs.

The following rule amendment enacts this change: ARM 37.87.903.

Home Support Services - Removal of 365-day Lifetime Limit

The department proposes to eliminate the 365-day lifetime limit for Home Support Services (HSS) and to eliminate the prior authorization requirement for HSS. The lifetime limit and prior authorization requirement are no longer relevant due to previous changes the department made to the billing structure of HSS. These changes are found in the Children's Mental Health Bureau, Medicaid Services Provider Manual, dated March 1, 2020, which is adopted and incorporated by reference in ARM 37.87.903.

Updates to Serious Emotional Disturbances List

The department proposes changes to clarify the SED section of the Children's Mental Health Bureau Medicaid Manual (manual) by updating language, revising the diagnosis list, and removing references to specific ICD-10 diagnosis codes. The updated manual is dated March 1, 2020, and is adopted and incorporated by reference in ARM 37.87.903.

Rule Clean Up

The department proposes to eliminate references to repealed rules, update references to definitions, correct scrivener's error, and use clarifying language that accurately reflects current practices. The following rule amendments enact these changes: ARM 37.87.702, 37.87.703, 37.87.802, 37.87.807, 37.87.809, 37.87.823, 37.87.903, 37.87.1011, 37.87.1202, 37.87.1217, 37.87.1223, 37.87.1226, 37.87.1351, 37.87.1402, 37.87.1405, 37.106.1902, 37.106.1906, and 37.106.1935.

The department proposes to repeal the following administrative rules related to a waiver program that ended on September 30, 2017, and therefore the rules are no longer relevant: ARM 37.87.1313, 37.87.1314, and 37.87.1315.

Fiscal Impact

This proposed rule amendment has a cost of \$657,943 in state fiscal year (SFY)2020 and \$4,837,606 in SFY2021 for the changes related to the targeted case management program redesign, non-SED outpatient limit and removal of HSS limit. A detailed fiscal impact by program is outlined below.

TCM Change	SFY2020	SFY2021	SFY2022
	\$332,124	\$3,069,307	\$5,431,295

Outpatient Therapy Increase Non-SED	SFY2020	SFY2021	SFY2022
	\$295,000	\$1,607,750	\$1,652,000

HSS Removal of 365 Day Limit	SFY2020	SFY2021	SFY2022
	\$30,818	\$160,550	\$182,963

Total	SFY2020	SFY2021	SFY2022
	\$657,943	\$4,837,606	\$7,266,258

The department proposes that the following rule amendments are to be retroactively effective to March 1, 2020: the proposed fee schedule, ARM 37.85.106; proposed changes to the manual adopted pursuant to ARM 37.87.903 relating to home support services and to the diagnosis codes and list of SED; and increasing the limit for outpatient therapy from 10 to 24 for youth who do not have an SED, ARM 37.87.903. All remaining rule amendments and rule repeals are to be effective September 1, 2020.

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: Heidi Clark, 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](mailto:dphhslegal@mt.gov), and must be received no later than 5:00 p.m., March 27, 2020.

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

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

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

/s/ Sheila Hogan  
Sheila Hogan, Director  
Public Health and Human Services

Certified to the Secretary of State February 18, 2020.