

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 37.27.902 and 37.88.101) PROPOSED AMENDMENT
pertaining to Medicaid and non-)
Medicaid manual updates)

TO: All Concerned Persons

1. On June 5, 2020, at 9:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rules. Because there currently exists a state of emergency in Montana due to the public health crisis caused by the coronavirus, there will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting <https://mt-gov.zoom.us/j/93784734510?pwd=WUw4ZDF6d2ptdWRjS3JYanc1RDV0dz09>, meeting ID: 937 8473 4510, password: 911185;

(b) Dial by telephone +1 406 444 9999 or +1 646 558 8656, meeting ID: 937 8473 4510, find your local number: <https://mt-gov.zoom.us/u/ajQrLXmNG>; or

(c) Join by Skype for Business <https://mt-gov.zoom.us/skype/93784734510>.

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 May 28, 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:

37.27.902 SUBSTANCE USE DISORDER SERVICES: AUTHORIZATION REQUIREMENTS (1) remains the same.

(2) In addition to the requirements contained in rule, the department has developed and published the Addictive and Mental Disorders Division Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health, dated ~~October 1, 2019~~ July 1, 2020, which it adopts and incorporates by reference. The purpose of the manual is to implement requirements for utilization management and services. 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, Addictive

and Mental Disorders Division, 100 N. Park, Ste. 300, P.O. Box 202905, Helena, MT 59620-2905 or at <http://dphhs.mt.gov/amdd.aspx>.

(3) In addition to the requirements contained in rule, the department has developed and published the Addictive and Mental Disorders Division Non-Medicaid Services Provider Manual for Substance Use Disorder, dated ~~July 1, 2019~~ July 1, 2020, which it adopts and incorporates by reference. The purpose of the manual is to implement requirements for utilization management and services. 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, Addictive and Mental Disorders Division, 100 N. Park, Ste. 300, P.O. Box 202905, Helena MT 59620-2905 or at <http://dphhs.mt.gov/amdd.aspx>.

AUTH: 53-6-113, 53-24-204, 53-24-208, 53-24-209, MCA

IMP: 53-6-101, 53-24-204, 53-24-208, 53-24-209, MCA

37.88.101 MEDICAID MENTAL HEALTH SERVICES FOR ADULTS, AUTHORIZATION REQUIREMENTS (1) remains the same.

(2) In addition to the requirements contained in rule, the department has developed and published the Addictive and Mental Disorders Division Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health (Manual), dated ~~October 1, 2019~~ July 1, 2020, which it adopts and incorporates by reference. The purpose of the Manual is to implement requirements for utilization management and services. 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, Addictive and Mental Disorders Division, 100 N. Park, Ste. 300, P.O. Box 202905, Helena, MT 59620-2905 or at <http://dphhs.mt.gov/amdd.aspx>.

(3) through (5) remain the same.

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

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

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.27.902 and 37.88.101.

Addictive and Mental Disorders Division Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health (Manual) in ARM 37.27.902 and 37.88.101

In collaboration with the Behavioral Health Alliance of Montana, the department proposes changes to the Program for Assertive Community Treatment and the Adult Mental Health Group Home service to enhance the quality of specialty community based services provided to adults with severe and disabling mental illness and to address social determinants of health, while ensuring a fiscally sound program. In addition, the proposed program amendments incorporate case management into two

intensive community-based service bundles while also addressing the need for services in frontier and rural areas.

The department proposes changes to the Addictive and Mental Disorders Division Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health (manual) to effectuate the changes. The proposed rule amendments adopt and incorporate the manual into the administrative rules, effective on July 1, 2020.

In addition to the programmatic changes, the department is proposing cleanup of the manual including updating language, revising formatting, and introducing an updated format for ease of reading.

The proposed amendments to the manual are as follows:

1. Expansion of a new service. The department is proposing to revise the current Program of Assertive Community Treatment (PACT) to a three-tier model that will expand access to PACT services for the Severe and Disabling Mental Illness (SDMI) population across the State of Montana to support transitions between Montana State Hospital, crisis services, and community based mental health services. The tiers of the program include:
 - a. Community Maintenance Program
 - b. PACT
 - c. Intensive PACT
2. Addition of a new service. The department is proposing the addition of a new service, Stand Alone Community Maintenance Program, that will expand access to assertive community treatment services for the SDMI population across the State of Montana to support transitions between PACT and lower levels of community-based services.
3. Removal of Intensive Community Based Rehabilitation. This service has been moved to the 1915(c) Home and Community Based Services, Severe and Disabling Mental Illness waiver program as a habilitation service to recognize the needs of adults with SDMI who need long term services and supports.
4. Replace Adult Group Home with Behavioral Health Group Home to provide structured rehabilitation in order to support members' recovery in the least restrictive level of care. This service incorporates peer support and case management as well as skills-based intervention and behavioral modification.
5. Clarification language added to Crisis Stabilization Program title and description. Language was added to differentiate between two services offered through this program. The services are 24-hour inpatient crisis stabilization and up to 23-hour 59-minute outpatient crisis stabilization. These changes have been made to reflect current terminology and to align with usage and fee schedule language.
6. Addition of definitions. Definitions added for "Targeted Case Management," "Tenancy Services," and "Licensure Candidate."
7. Provide clarifying language and sections added for organization. Clarification language added to better serve the needs of the members and to align with Other Rehabilitative Services State Plan and fee schedule language.

8. Updated Utilization Review (UR) information. Updated information to reflect changes in UR processes.

These proposed amendments are necessary to enact the program changes to the Montana Medicaid benefit plan, which will provide adults with SDMI greater access to appropriate care and to update utilization review due to the implementation of a new department-wide utilization review contractor effective January 1, 2020.

Addictive and Mental Disorders Division Non-Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health (Non-Medicaid Manual) in ARM 37.27.902.

The department proposes to amend the Non-Medicaid Manual in ARM 37.27.902 for general housekeeping to update language and revise formatting. The rule to be amended adopts and incorporates the manual into the administrative rules, and the manual will be dated and effective on July 1, 2020.

Removal of Substance Use Disorder (SUD) Special Projects. The department proposes to remove the SUD, Special Projects from the manual. The program is now managed through contract with providers that offer the service. Providers wishing to participate in the SUD, Special Projects program submit an application for funding to the department for approval. The proposed rule amendment will eliminate redundancy between the contract process and administrative rule.

Fiscal Impact

This proposed rule amendment has a fiscal impact of \$3,534,500 in state fiscal year (SFY) 2021 and \$5,575,600 in SFY 2022 for the changes related to the Program of Assertive Community Treatment redesign and the amendment of Adult Group Home to Behavioral Health Group Home as provided by Mental Health Centers. There are 29 active Mental Health Centers enrolled in the Montana Medicaid program. The proposed fee schedules in ARM 37.85.104 and 37.85.105, in MAR Notice No. 37-916, reflects the changes associated with these proposed program amendments.

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: 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, and must be received no later than 5:00 p.m., June 12, 2020.

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, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will significantly and directly impact small businesses.

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/ 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 May 5, 2020.