

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
developmental disabilities program)
services manual updates)

TO: All Concerned Persons

1. On July 16, 2020, at 1:00 p.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 rule. 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 at: <https://mt-gov.zoom.us/j/94888646522>, meeting ID: 948 8864 6522;

(b) Dial by telephone +1 646 558 8656, meeting ID: 948 8864 6522; find your local number: <https://mt-gov.zoom.us/u/alkjOK7EZ>.

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 July 10, 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 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 Services Manual, effective ~~July 1, 2019~~ July 1, 2020. 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 pertaining to reimbursement rates in the Montana Developmental Disabilities Program Services Manual (manual).

The rule amendment would adopt and incorporate the updated version of the manual, dated July 1, 2020, to include changes in billing and reimbursement of services provided to persons who are recipients of developmental disabilities services through the Medicaid program.

Based on legislative appropriations in the 2019 legislative session, the Developmental Disabilities Program proposes to implement a 1.83% average provider rate increase. These rate adjustments are reflected in the proposed manual, dated July 1, 2020.

In addition to the provider rate increase, the department proposes the following additional changes to the manual:

1) Providing clarification of definition and/or billing codes or processes to minimize billing issues for several services in the Program Services Manual for the following services:

Adult Foster

Caregiver Training and Support

Community Transition Services

Companion

Day Supports & Activities

Environmental Modifications

Homemaker

Individual Goods and Services

Meals

PERS

Remote Monitoring Equipment

Residential Habilitation

Residential Training Supports

Respite

Retirement

Specialized Medical Equipment and Supplies

Supported Employment – Co Worker Support

Supported Employment – Follow Along

Supported Employment – Individual Employment Support

Supported Employment – Small Group Employment Support

Supports Brokerage

Transportation

2) Rewording some areas throughout to provide consistency in formatting and acronyms.

The proposed updated manual, dated July 1, 2020, can be found at <https://dphhs.mt.gov/dsd/developmentaldisabilities/ddpratesinf>.

Fiscal Impact

The 1.83% provider rate increase is projected to have the following fiscal impact:

\$906,663 General Fund increase
\$1,691,971 Federal Funds increase
\$2,598,634 Total Funds increase

The proposed rule amendment adopts and incorporates an updated manual, which would have an effective date retroactive to July 1, 2020.

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., July 24, 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 rule will not 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/ Marie Matthews for Sheila Hogan
Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State June 16, 2020.