

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, 37.85.105, and) PROPOSED AMENDMENT
37.88.101 pertaining to Medicaid)
rates and services)

TO: All Concerned Persons

1. On August 27, 2020, at 10:00 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 at <https://mt-gov.zoom.us/j/99635490904>, Meeting ID: 996 3549 0904; or

(b) Dial by telephone +1 646 558 8656, meeting ID: 996 3549 0904. Find your local number: <https://mt-gov.zoom.us/u/azoCGpreE>.

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 August 21, 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 ~~July 1, 2020~~ October 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) remains the same.

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

37.85.105 EFFECTIVE DATES, CONVERSION FACTORS, POLICY ADJUSTERS, AND COST-TO-CHARGE RATIOS OF MONTANA MEDICAID PROVIDER FEE SCHEDULES (1) and (2) remain the same.

(3) The department adopts and incorporates by reference, the fee schedule for the following programs within the Health Resources Division, on the date stated.

(a) The inpatient hospital services fee schedule and inpatient hospital base fee schedule rates including:

(i) the APR-DRG fee schedule for inpatient hospitals as provided in ARM 37.86.2907, effective ~~October 1, 2019~~ October 1, 2020; and

(ii) the Montana Medicaid APR-DRG relative weight values, average national length of stay (ALOS), outlier thresholds, and APR grouper version ~~36~~ 37 are contained in the APR-DRG Table of Weights and Thresholds effective ~~October 1, 2019~~ October 1, 2020. The department adopts and incorporates by reference the APR-DRG Table of Weights and Thresholds effective ~~October 1, 2019~~ October 1, 2020.

(b) The outpatient hospital services fee schedules including:

(i) through (iii) remain the same.

(iv) the bundled composite rate of ~~\$250.88~~ \$255.47 for services provided in an outpatient maintenance dialysis clinic effective on or after ~~April 1, 2019~~ July 1, 2020.

(c) through (4) remain the same.

(5) The department adopts and incorporates by reference, the fee schedule for the following programs within the Addictive and Mental Disorders Division on the date stated:

(a) The mental health center services for adults fee schedule, as provided in ARM 37.88.907, is effective ~~July 1, 2020~~ October 1, 2020.

(b) through (6) remain the same.

AUTH: 53-2-201, 53-6-113, MCA
IMP: 53-2-201, 53-6-101, 53-6-125, 53-6-402, 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 ~~July 1, 2020~~ October 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) administers the Montana Medicaid and non-Medicaid program to provide health care to Montana's qualified low income, elderly, and disabled residents. Medicaid is a public assistance program paid for with state and federal funds appropriated to pay health care providers for the covered medical services they deliver to Medicaid members.

The purpose of the proposed rule amendments is to:

1. adopt Version 37 of the APR-DRG grouper and incorporate the updated relative weights, and average national length of stays for inpatient hospitals;
2. increase the bundled composite rate for dialysis clinics;
3. add a new Medicaid service, transcranial magnetic stimulation (TMS); and
4. make changes in the Addictive and Mental Disorders Division policy manual to update terminology and clarify drug testing criteria.

Inpatient Hospital

The department proposes to adopt a new version of the APR-DRG grouper effective October 1, 2020. Version 37 of the grouper contains changes to DRG relative weights and average length of stays. Implementation of the proposed changes will maintain inpatient hospital reimbursement within the appropriations outlined in House Bill 2.

The proposed October 1, 2020 APR-DRG calculator is posted at the following weblink: <https://medicaidprovider.mt.gov/proposedfs>.

Dialysis Clinic

Effective July 1, 2020, the bundled composite rate for dialysis clinics will be \$255.47. This change incorporates the legislatively appropriated provider rate increase for dialysis clinics. An analysis was required to confirm the proposed rate increase would not result in paying above the upper payment limit for dialysis clinics.

TMS service

The department proposes to add transcranial magnetic stimulation services, which can provide noninvasive treatment options for Medicaid members with a diagnosis of major depressive disorder, when other treatments have not been effective. The addition of this service will enhance the services provided to adults with severe and disabling mental illness who experience treatment-resistant major depression.

Policy Changes to AMDD Manual

The department proposes to amend the language in Policy 460, Program for Assertive Community Treatment (PACT). This is necessary to ensure the appropriate and consistent use of terminology to avoid confusion pertaining to the requirements for each of the PACT tiers.

The department proposes to add language to Policy 505 to specify that Medicaid only pays for drug testing when determined medically necessary and that court orders do not signify medical necessity. This is necessary to ensure Montana Medicaid is only reimbursing for medically necessary drug testing when a member is under a court order for scheduled drug testing.

The department proposes to add language to Policy 120, Individualized Treatment Plans (ITP), to reflect that the ITPs must be signed by the member. This is necessary to align substance use disorder ITP requirements with those that currently exist for adult mental health.

Fiscal Impact

Provider type	SFY 2021 Budget Impact (State Funds)	SFY 2021 Budget Impact (Federal Funds)	SFY 2021 Budget Impact (Total Funds)	Active Provider Count
Inpatient				
Hospitals	0	0	0	499
Dialysis Clinics	17,306	44,504	61,810	24
Physician/Psychiatrists (TMS service)	69,060	130,940	200,000	2

Montana Medicaid provides health benefits to approximately 237,314 persons.

TMS service

It is estimated that approximately 20% of individuals with a primary diagnosis of major depression are treatment resistant. There are approximately 145 Medicaid members who had a primary diagnosis of major depression in calendar year 2019; therefore, the department estimates that approximately 30 members would meet the medical necessity criteria for transcranial magnetic stimulation (TMS), given currently available data on members.

In accordance with ARM 37.86.105(8), the reimbursement for TMS was determined by multiplying the average charge for the service by the payment-to-charge ratio. This rate methodology is used for services that are new and/or underutilized. The department anticipates that there will be a limited number of providers who will provide this treatment.

The cost estimate of approximately \$200,000 for the new TMS service assumes that all of the estimated 30 members eligible for the service will receive the service.

The department intends for these rule amendments to be effective October 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., September 4, 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 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/ Sheila Hogan
Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State July 28, 2020.