



Greg Gianforte, Governor

Charles T. Brereton, Director

January 13, 2023

[Tribal leader address]

Re: 1915(c) Home and Community Based Montana Medicaid Comprehensive Waiver for Individuals with Developmental Disabilities Renewal – Effective July 1, 2023

Dear [Title] [Last Name]:

The Montana Department of Public Health and Human Services (DPHHS) is pleased to invite comment from all Tribal Governments, Urban Indian Organizations, and Indian Health Service regarding Montana's 1915(c) Home and Community Based Comprehensive Waiver for Individuals with Developmental Disabilities (Comprehensive Waiver). DPHHS will submit the Comprehensive Waiver renewal for Centers for Medicare and Medicaid Services (CMS) approval on or before March 31, 2023. The effective date of the renewal is July 1, 2023.

Under our agreement, DPHHS provides you notice of all Medicaid state plan and waiver changes. To aid your review, we have indicated when there will be a direct impact on reimbursement or coverage for American Indians.

Comprehensive Waiver

The Comprehensive Waiver is designed to provide developmentally disabled individuals a choice of receiving services in a community setting as an alternative to receiving services in an institutional setting. The waiver member must meet institutional level of care and live in Montana. The Comprehensive Waiver is currently available to serve a total of 2,880 persons statewide.

Proposed Changes:

- In the previously approved amendment, the reserve capacity for emergency selections was increased for waiver year 4 and 5. The renewal revises waiver year 1-3 to be increased and consistent for all 5 years.
- In the previously approved amendment, the reserve capacity for individuals transitioning from institutional settings was decreased for waiver year 4 and 5, due to the closure of Montana's Intermediate Care Facility for Individuals with Intellectual Disabilities. The renewal revises waiver year 1-3 to be decreased and consistent for all 5 years.
- Adds another level of service to Behavioral Support Services to include direct treatment of implementing treatment plans, behavior intervention procedures, skill acquisition procedures and positive behavior support plans by a Registered Behavior Technician or Intensive Behavior Assistant, under the supervision of a Board Certified Behavior Analyst, Board Certified Assistant Behavior Analyst, or Intermediate Professional; or either a person with a degree in Applied Behavior Analysis, Psychology, or Special Education who has provided

- documentation of training and experience in the use of principles of Applied Behavior Analysis as approved by the Department.
- Adds language regarding the availability of retainer payments for providers of Assisted Living and Retirement services.
 - Adds the ability for Developmental Disabilities Program (DDP) qualified service provider agencies to subcontract for Residential Habilitation and Adult Foster.
 - Removes the limit of a single foster home not being able to exceed the Adult Foster Supports reimbursement rate for serving one member with intensive support needs.
 - Revises the Remote Monitoring service definition to include more information and clarification, per CMS, to include the following:
 - Discovery of monitoring in private areas addressed by case managers and quality assurance personnel during on-site visits;
 - HIPAA compliance requirements;
 - The service diverts institutional or more restrictive placements by providing appropriate level of supervision for safety in the community;
 - Assurance that the member and staff are trained on utilizing the technology and having the ability to turn off the equipment; and
 - Assurance that there is no duplication with other waiver services.
 - For the following services that currently allow a relative and/or legal guardian as paid caregivers, adds “legally responsible person” as a paid caregiver: Residential Habilitation, Companion Services, Personal Care, Personal Supports, and the following Supported Employment services: Follow Along Support, Co-Worker Support, Individual Employment Support, and Small Group Employment Support.
 - Adds authorization criteria and defines extraordinary care for legally responsible persons to be paid caregivers.
 - Replaces contract language with “DDP qualified service provider.”
 - Updates Administrative Rules of Montana (ARM) references that were transferred to a new chapter number:
 - Physical Therapy 24.177.101 through 24.177.2405;
 - Private Duty Nursing 24.159.101 through 24.159.2301;
 - Psychological Evaluation, Counseling and Consultation Services 24.189.601 through 24.189.633; and
 - Speech Therapy 24.222.101 through 24.222.2402.
 - Updates case managers’ training/knowledge requirements to align with Montana’s approved Targeted Case Management Services for Individuals with Developmental Disabilities Enrolled in the 1915(c) Waiver or Eligible Individuals Age 16 and Over State Plan.
 - Updates plan of care language and goal structure.
 - Combines contracted and state service coordinator performance measures.
 - Updates Incident Manual procedures.
 - Revises the G.d.1. performance measure to clarify that completion of a Healthcare Checklist and Risk Worksheet is monitored as well as whether there is an action in the plan of care that corresponds with a follow-up in the Healthcare Checklist and Risk Worksheet, per CMS’s recommendation.
 - Updates Developmental Services Division (DSD) to Behavioral Health and Developmental Disabilities (BHDD) Division.
 - Adds rate study language, including behavioral service rates.
 - Updates Quality Assurance Division (QAD) to Office of Inspector General (OIG), Audit Compliance Bureau to Program Compliance Bureau or Quality Control Unit, updates invoiced/invoicing to billed/billing.

- Revises the denominators of performance measures to clarify that the paid claims reviewed are representative samples.
- Revises the I.b.1. performance measure to better align with the sub-assurance, per CMS's recommendation.
- Updates Factors D, D', G, and G', and Average Length of Stay based on currently available data.
- Updates Number of Users, Average Units per User, and Average Cost per Unit for each service based on currently available data.
- Adds a Level II for Registered Behavior Technician and Level II for Intensive Behavior Assistant to Behavioral Support Services with projected calculations.

The renewal **positively impacts** American Indians enrolled in the Comprehensive Waiver because it allows for continuation of the waiver authorization.

The current Comprehensive Waiver fee schedule can be found at:

<https://medicaidprovider.mt.gov/docs/feeschedules/2022FS/July2022/July2022DDPFeeSchedule07252022.pdf>. The draft renewal is available for review at:

<https://dphhs.mt.gov/dsd/developmentaldisabilities/ddpmedicaidwaivers>. The state, upon request, will make available hard copies of the draft waiver renewal.

DPHHS is holding a virtual public meeting on the draft renewal on **Tuesday, January 31, 2023, from 12:00 p.m. to 2:00 p.m.** Information on joining the virtual public meeting can be found at:

<https://dphhs.mt.gov/dsd/developmentaldisabilities/ddpmedicaidwaivers>

Your questions and comments can be submitted during the public comment period, **from January 18, 2023 through February 17, 2023**, addressed to: Mary Eve Kulawik, Medicaid State Plan Amendment and Waiver Coordinator, at (406) 444-2584 or mkulawik@mt.gov; or Director's Office, PO Box 4210, Helena, MT 59604-4210.

Thank you for your continued commitment to the Medicaid program.

Sincerely,

Mike Randol
 Medicaid and Health Services Executive Director/State Medicaid Director

c: [Tribal Health Director]
 Misty Kuhl, Director, Governor's Office of Indian Affairs
 Lesa Evers, Tribal Relations Manager, DPHHS