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DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2025-278.1

Summary

Amendment of ARM 37.34.1401, 37.34.1402, 37.34.1404, 37.34.1411, 37.34.1412, 37.34.1418, 37.34.1420, and 37.34.1422 and repeal of ARM 37.34.1405 pertaining to Positive Behavior Support Systems

Hearing Date and Time

Friday, May 16, 2025, at 9:00 a.m.

Virtual Hearing Information

Join Zoom Meeting at: <https://mt-gov.zoom.us/j/81844081054?pwd=XiuDmTzNSQbwosEvo8l157Ay4xuDTu.1>,

Meeting ID: 818 4408 1054, and password: 917559; or

Dial by telephone: +1 646 558 8656, meeting ID: 818 4408 1054, and password: 917559. Find your local number: <https://mt-gov.zoom.us/u/kbnGUZecDQ>.

Comments

Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may be submitted using the contact information below. Comments must be received by Friday, May 23, 2025, at 5:00 p.m.

Accommodations

The department 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. Requests must be made by Friday, May 2, 2025, at 5:00 p.m.

Contact

Bailey Yuhas
(406) 444-4094
hhsadminrules@mt.gov
Fax: (406) 444-9744

Rulemaking Actions

AMEND

The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

37.34.1401 ~~POSITIVE BEHAVIOR SUPPORT: PURPOSE~~

- (1) The purpose of the rules under this subchapter is to require the use of ~~positive~~ behavior supports intended to encourage individual growth, improve quality of life, and reduce the use of unnecessary intrusive measures for persons receiving services funded through the department by DDP. ~~Positive behavior~~ Behavior support focuses ~~both~~ on what is important to the person as ~~well as what is~~ important for the person ~~an individual and what is important for~~ when encouraging growth and change. This ~~rule subchapter~~ prohibits the use of ~~seclusion or the use of or procedures which are abusive, or demeaning procedures, or procedures that cause pain or discomfort,~~ pursuant to the provisions of ARM 37.34.1418. Emergency procedure exceptions are as provided for in the emergency procedures allowed for in ARM 37.34.1420. This subchapter applies to persons receiving services from community-based providers that are funded entirely or in part by the department.

Authorizing statute(s): 53-6-402, 53-20-204, MCA

Implementing statute(s): 53-6-402, 53-20-203, MCA

37.34.1402 POSITIVE BEHAVIOR SUPPORT: APPLICABILITY

- (1) All children and adults receiving services from community-based providers that are funded entirely or in part by the department through DDP must be afforded the protections imposed by these rules. Any service provider approved by DDP through the provider enrollment process, (i.e., a DDP qualified service provider) ~~contracting with the department to provide services to persons with developmental disabilities~~ must conduct its activities in accordance with these rules.

Authorizing statute(s): 53-6-402, 53-20-204, MCA

Implementing statute(s): 53-6-402, 53-20-203 MCA

37.34.1404 POSITIVE BEHAVIOR SUPPORT: DEFINITIONS

For the purposes of this subchapter, the following definitions apply:

- (1) "Advocate" is defined in ARM 37.34.102.
- (2) "Alternative behavior" means a behavior that can, but is not likely to occur at the same time as a challenging behavior.
- (3) "Challenging behavior" means a behavior that presents a risk or potential risk to the health or safety of a the person or to others.
- ~~(4)~~ ~~"Contingent observation" means a method of decreasing a challenging behavior by telling the person what they are doing wrong and asking the person to not participate in the ongoing activity for a short period of time, to be seated nearby, and to observe others engaging in a specific appropriate behavior and receiving positive reinforcement for it. The person who is observing the behavior may rejoin the activity group when the person agrees to behave appropriately. The person's appropriate behavior is then reinforced when the person exhibits the appropriate behavior.~~
- (4) "Chemical restraint" means any drug that is used for discipline or staff convenience and is not required to treat medical symptoms.
- (5) "Coercion" means the practice of persuading a person to do something by using force or threats.
- ~~(5)(6)~~ "Contingent access" to social activities and personal possessions including personal funds" means that upon the restriction of access to activities, places, and items, including personal possessions, as a result of the occurrence of a specified challenging behavior, the person's attendance at social activities and use of personal possessions including personal funds is restricted.

- ~~(6)~~(7) "Corporal punishment" means knowingly and purposefully inflicting physical pain on a person as a disciplinary measure.
- (8) "DDP" means the Developmental Disabilities Program.
- ~~(7)~~(9) "Educational fine," also known as token or point removal, means a ~~system~~ method of decreasing challenging behavior by reducing the quantity of earned tokens or points based upon a token or point system. A small fine is levied contingent upon the occurrence of a challenging behavior. ~~A teaching episode must accompany each fine which includes a description of the challenging behavior, the amount of the fine, instruction on the appropriate forms of behavior, and the opportunity for the person to "earn back" a portion of the fine~~ the token(s) or point(s) for by practicing the appropriate behaviors.
- ~~(8)~~(10) "Exclusion time out" means a method of decreasing a challenging behavior by requiring a person to leave an ongoing reinforcing situation for a period of time, contingent on the occurrence of some previously specified challenging behavior. ~~Unlike contingent observation, the~~ The person is not instructed to observe the appropriate behavior of others.
- ~~(9)~~(11) "Graduated guidance" means systematically providing the minimum degree of physical assistance necessary to ensure that a desired behavior occurs. Graduated guidance is a technique combining physical guidance and fading in which the physical guidance is systematically and gradually reduced and faded according to the person's responsiveness. Graduated guidance techniques do not include physical restraint ~~as a primary component~~. Graduated guidance is assistive rather than restrictive and does not involve forced compliance.
- ~~(10)~~(12) "Mechanical restraint" means a physical device used to restrict the person's movement or restrict the normal function of the person's body. The term "mechanical restraint" does not include safety devices or medically related restraints. ~~The definition does not include the following:~~
- ~~(a) physical equipment or orthopedic appliances, surgical dressings or bandages, supportive body bands or other restraints necessary for medical treatment, routine physical examinations, or medical tests;~~
 - ~~(b) devices used to support functional body position or proper balance; or~~
 - ~~(c) equipment used for safety during transportation.~~
- (13) "Medically related restraint" means physical equipment or orthopedic appliances. Medically related restraint includes devices used to support functional body position or proper balance; surgical dressings or bandages; and supportive body bands or other restraints, including manual holds, necessary for the person to receive medical treatment, routine physical examinations, or medical tests. Medically related restraint requires a written order or other authorization from a

medical practitioner who is licensed to practice medicine, including physicians, physician assistants, and nurse practitioners.

~~(11)~~(14) "Overcorrection" means a technique used to decrease a challenging behavior, typically taking the form of asking or guiding a person to repeat the correct form of a behavior or activity. The two main types of overcorrection are restitutive overcorrection and positive practice overcorrection.

~~(12)~~(15) "Physical enforcement" means a person is required to perform a behavior by another person using physical contact with them.

~~(13)~~(16) "Physical prompt" means a person physically guides the person to perform a response. Physical prompts are assistive rather than restrictive and do not involve forced compliance.

~~(14)~~(17) "Physical restraint" means the restriction of the person's movement by holding or applying physical pressure to bring the person's behavior under control in order to avoid the risk of serious harm to the person, or other person(s), or to the environment. The term "physical restraint" does not include the use of physical prompts, ~~or~~ graduated guidance, or medically related restraints.

~~(15)~~(18) "Positive practice overcorrection" means a form of overcorrection in which requiring the person engaging in a challenging behavior is asked or guided to intensely repeatedly practice a specified appropriate alternative form of the behavior.

~~(16)~~ "Required relaxation" means ~~requiring the person to relax quietly for a period of time after the occurrence of a challenging behavior.~~

~~(17)~~(19) "Response cost" means a procedure reducing accumulated reinforcement upon the occurrence of a challenging behavior, thus making the behavior less likely to occur.

~~(18)~~(20) "Restitutive overcorrection" means a form of overcorrection ~~requiring asking or guiding~~ a person engaging in a challenging behavior to restore the environment to its previous state and improve on the previous conditions.

~~(19)~~(21) "Restriction of rights" means procedures which involve withdrawal, delay, or curtailment of rights which the person may ordinarily exercise. Such withdrawal is usually in connection with a program through which the person may exercise such rights by performing specified behaviors.

(22) "Safety device" means a device used in accordance with a person's plan of care that reduces or inhibits the person's movement with the sole purpose of maintaining the safety of the person. Safety devices include: implements, garments, gates, locks or locking apparatuses, helmets, masks, gloves, straps, bed-rails, or belts.

(23) "Safety science" means applying scientific methods, research, and tools to understand, assess, and manage safety.

~~(20)~~(24) "Seclusion" means requiring the person to remain alone in a room or any area behind a closed door which prevents them from leaving or being observed for a period of time.

(25) "Therapeutic care" means care administered by licensed professionals such as speech, occupational, and physical therapies and mental/emotional counseling.

(26) "Trauma informed care" means an approach to care that recognizes the widespread impact of trauma and promotes environments of healing and recovery. Trauma informed care seeks to avoid re-traumatization and to understand and respond to signs and symptoms of trauma in individuals, families, and staff.

Authorizing statute(s): 53-6-402, 53-20-204, MCA

Implementing statute(s): 53-6-402, 53-20-203, MCA

37.34.1411 ~~POSITIVE BEHAVIOR SUPPORT: FUNCTIONAL BEHAVIOR ASSESSMENT~~

- (1) A ~~functional~~ behavior assessment is the gathering of information about a person's behavior based upon multiple information sources, including:
 - (a) a review of the person's records;
 - (b) personal observations;
 - (c) interviews with support providers;
 - (d) interviews with the person; and
 - (e) interviews with others who have personal knowledge of the person.
- (2) A ~~functional~~ behavior assessment must include:
 - (a) a clear and measurable description of the challenging behavior, including frequency, duration, intensity, and severity of the behavior;
 - (b) a clear description of the need to alter the behavior;
 - (c) a clear description of medical, psychological, psychiatric, physiological, and environmental conditions in terms of how they may affect the occurrence of the challenging behavior;
 - (d) the events, times, and situations that predict both the occurrence and the nonoccurrence of the challenging behavior ~~and a description of the events immediately preceding and following the behavior;~~

- (e) summary statement(s) which explain(s) what ~~regarding the function(s) that~~ may be maintaining the challenging behavior; and
- (f) data confirming the function occurrences of the challenging behavior, ~~and the strategies for reducing or eliminating the challenging behavior;~~
- ~~(g) functional alternative behavior that serves to meet the same function as the challenging behavior; and~~
- ~~(h) a clear and measurable procedure that will be used to alter the challenging behavior.~~

Authorizing statute(s): 53-6-402, 53-20-204, MCA

Implementing statute(s): 53-6-402, 53-20-203, MCA

37.34.1412 POSITIVE BEHAVIOR SUPPORT: BEHAVIOR SUPPORT PLAN

- (1) The behavior support plan is a formal written plan to address needs identified in a person's plan of care and must be developed for all persons engaging in challenging behavior. ~~A behavior support plan must be developed as required by ARM 37.34.1420(4).~~ The behavior support plan must be based on a functional behavior assessment as described in ARM 37.34.1411.
- (2) Behavior support plans:
 - ~~(a) utilize the basic principles of human behavior and learning and the principles of applied behavior analysis;~~
 - ~~(b) emphasize the development of the functional alternative behavior using positive approaches, positive behavior intervention, and positive reinforcement procedures;~~
 - ~~(c)~~(a) use the least restrictive intervention possible;
 - ~~(d) describe how to rearrange environments, alter curricula or tasks, and adjust schedules;~~
 - ~~(e) are practical and appropriate for the settings where they will be implemented, for the person and for those who will implement the methods described;~~
 - ~~(f)~~(b) are evaluated through timely review of specific data on the progress and effectiveness of the procedure;

- ~~(g)~~ identify functional alternative behavior that meets the same function as the challenging behavior;
 - ~~(h)~~(c) provide a clear and measurable procedure used to alter the challenging behavior;
 - (d) include target behaviors;
 - ~~(i)~~(e) include a description of any restrictions necessary to protect the health and safety of the person, describe why the restrictions are necessary, and list the criteria for removing them;
 - ~~(j)~~(f) include reactive strategies to ensure the safety of the person and others; and
 - ~~(k)~~(g) are included in the person's plan of care.
- (3) A behavior support plan must not include the use of ~~seclusion restrictions or acts prohibited in ARM 37.34.1418;~~ or the use of procedures which are aversive, abusive, or demeaning procedures; or procedures that cause pain or discomfort, except as provided for in the emergency procedures allowed for in ARM 37.34.1420.
 - (4) Use of the person's behavior support plan requires prior written consent from the following for approval:
 - (a) the person;
 - (b) the person's parent(s) if the person is under 18 years of age; ~~and~~ or
 - (c) the person's legal representative guardian, if one has been appointed by the court.
 - (5) The person's planning team and the person's providers are responsible for the implementation of the person's behavior support plan.
 - (6) A behavior support plan must include appropriate measures for training and monitoring staff performance throughout the implementation of the behavior support plan.

Authorizing statute(s): 53-6-402, 53-20-204, MCA

Implementing statute(s): 53-6-402, 53-20-203, MCA

37.34.1418 POSITIVE BEHAVIOR SUPPORT: PROHIBITIONS

- (1) The following may not be restricted for ~~the any purposes, of including a positive~~ behavior support plans or programs:

- (a) education and training services;
 - (b) a safe environment to live, work, and receive treatment;
 - (c) ~~an individual~~ person-centered plan of care;
 - (d) prompt medical, ~~and dental, and therapeutic~~ care;
 - (e) a nourishing, well-balanced diet;
 - (f) assistance of an advocate;
 - (g) exercise of voting rights;
 - ~~(g)(h)~~ opportunity for religious worship; ~~and~~
 - ~~(h)(i)~~ just compensation for work performed; ~~and~~
 - (i) right to grievance processes.
- (2) ~~Corporal punishment and verbal and physical abuse~~ The following acts are prohibited in the delivery of services to a person:
- (a) chemical restraint;
 - (b) coercion;
 - (c) corporal punishment;
 - (d) exclusion time out;
 - (e) mechanical restraint;
 - (f) physical enforcement;
 - (g) physical restraint, except as authorized as an emergency procedure set forth in ARM 37.34.1420;
 - (h) restitutional overcorrection;
 - (i) seclusion; and
 - (j) abuse as defined in 52-3-803, MCA.

Authorizing statute(s): 53-2-201, 53-20-204, MCA

Implementing statute(s): 53-20-203, 53-20-205, MCA

37.34.1420 POSITIVE BEHAVIOR SUPPORT: EMERGENCY PROCEDURES

- (1) Emergencies are situations in which the person, ~~or other person(s) others, or the environment~~ is/are at imminent risk of serious harm or ~~damage injury~~ due to the person's challenging behavior.
- (2) If an emergency occurs, ~~a physical restraint the following procedures~~ may be used if necessary to prevent the imminent risk of serious harm or ~~damage injury~~ to the person, ~~or other person(s) others, or the environment~~ but only if the following requirements are met:
 - (a) ~~physical restraint; or~~ staff members involved with the application of physical restraint must be trained to apply such restraints safely and properly;
 - (b) ~~mechanical restraint, upon written order by a licensed physician for medical reasons.~~ physical restraint may only be used as a last resort after other alternative measures have been tried prior to initiating the restraint;
 - (c) physical restraint must not result in harm or injury to the person, including restriction of blood circulation or breathing;
 - (d) any use of physical restraint must be for the shortest duration possible and must end as soon as it is determined that the emergency has ceased and the person's safety and the safety of others can be ensured.
- (3) Incident reporting must meet the requirements described in ARM Title 37, chapter 34, subchapter 15.
- (4) ~~A behavior support plan, as described in ARM 37.34.1412, must be developed for the person if physical restraint is used three times in a three-month period.~~ Nothing in this section limits or restricts the use of medically related restraints as defined in ARM 37.34.1404.

Authorizing statute(s): 53-6-402, 53-20-204, MCA

Implementing statute(s): 53-6-402, 53-20-203, MCA

37.34.1422 POSITIVE BEHAVIOR SUPPORT: RESTRICTED PROCEDURES

- (1) The following restricted procedures may be used for up to 90 calendar days as part of a behavior support plan that is developed in accordance with a person's Home and Community-Based Services (HCBS) health and safety modification and ARM 37.34.1412 and approved in accordance with (2):
 - (a) ~~physically enforced contingent observation;~~

- ~~(b)~~(a) contingent access to personal possessions;
 - ~~(c)~~(b) contingent access to personal funds;
 - (c) contingent access to technology and technology devices, not to include communication devices;
 - ~~(d)~~ educational fines;
 - ~~(e)~~ physically enforced exclusion time out;
 - ~~(f)~~ physically enforced overcorrection;
 - ~~(g)~~ physically enforced positive practice overcorrection;
 - ~~(h)~~ physically enforced restitutional overcorrection;
 - ~~(i)~~(d) contingent access to social activities;
 - (e) contingent access to specific community location(s); and
 - ~~(j)~~(f) response cost; and
 - ~~(k)~~ physically enforced required relaxation.
- (2) A behavior support plan that includes the use of restrictive procedures must be approved by:
- (a) a board-certified behavior analyst doctoral (BCBA-D), board-certified behavior analyst (BCBA), or board-certified assistant behavior analyst (BCaBA) under the supervision of a BCBA-D or BCBA;
 - ~~(b)~~ a family support specialist with an autism endorsement (FSS-AE);
 - ~~(c)~~(b) a person with an Institute for Applied Behavior Analysis (IABA) ~~consultant~~ certification or an Intermediate Applied Behavior Analysis (ABA) Professional; or
 - ~~(d)~~(c) a person with a degree in applied behavior analysis (ABA), psychology, or special education who has provided documentation of training and experience in the use of the principles of ~~applied behavior analysis~~ ABA as approved by the department in the habilitation of person(s) with developmental disabilities and the development of behavior support plans to the developmental disabilities program director.
- (3) All professionals developing and approving behavior plans are encouraged to have additional training in principles of safety science and trauma informed care.
- ~~(3)~~(4) A copy of the behavior support plan incorporating restricted procedures as listed in (1) must be sent to the ~~developmental disabilities program director~~ DDP bureau chief or their designee within three working days after approval as required in (2).

~~(4)(5)~~ ~~The developmental disabilities program director~~ DDP bureau chief or their designee must provide prior written authorization for the continued use of the restricted procedures after 90 calendar days. ~~and the department designee~~ The designee(s) may take the form of a program review committee which is responsible for reviewing and monitoring the continued implementation and effectiveness of the behavior support plan. A behavior support plan incorporating restricted procedures must be reviewed at least once per year by the DDP program review committee.

(a) Program review committees:

- (i) have at least three members;
- (ii) meet at least once per month; and
- (iii) can be composed of, but are not limited to psychiatrist(s), psychologist(s), board certified behavior analyst(s), provider representative(s), regional representative(s), a developmental disabilities program central office representative, a targeted case manager (TCM), a representative of Disability Rights Montana (DRM), parent/family representatives, or members currently receiving services with or without restrictions.

~~(5)(6)~~ The restricted procedures in (1) may only be used in the delivery of services to a person as authorized by these rules.

Authorizing statute(s): 53-6-402, 53-20-204, MCA

Implementing statute(s): 53-6-402, 53-20-203, MCA

REPEAL

The rule proposed to be repealed is as follows:

37.34.1405 POSITIVE BEHAVIOR SUPPORT: DESCRIPTION

Authorizing statute(s): 53-6-402, 53-20-204, MCA

Implementing statute(s): 53-6-402, 53-20-203, MCA

Reasonable Necessity Statement

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.34.1401, 37.34.1402, 37.34.1404, 37.34.1411, 37.34.1412, 37.34.1418, 37.34.1420, 37.34.1422, and repeal ARM 37.34.1405, pertaining to Positive Behavior Support.

The Regulatory Reform Initiative (RRI) requires the department to enhance the consistency and efficiency of administrative rules. Senate Bill (SB) 5 similarly directs the Developmental Disabilities Program (DDP) to enhance consistency and efficiency. The SB 5 group was formed to meet the goals of Senate Bill 5, which aligns with the goals of the RRI. The SB 5 group has advised DDP that its Positive Behavior Support Systems rules should be amended to align with the federal Home and Community-Based Services (HCBS) Settings Rule, 42 CFR Parts 430, 431, 435, 436, 440, 441, and 447. The HCBS Settings Rule addresses several sections of Medicaid law under which states may use Medicaid funds to pay for HCBS.

Additionally, some of the terms in the above-listed rules also need to be updated to reflect terms used in the DDP's current 0208 Comprehensive HCBS Waiver. One of these changes is changing "Positive Behavior Supports" to "Behavior Supports."

ARM 37.34.1401

The rule uses the term "Positive Behavior Supports" which the department proposes to change to "Behavior Supports." The rule also prohibits seclusion, abusive, and demeaning procedures set forth in ARM 37.34.1418, but it does not reference this rule, which the department proposes to add. The department also proposes amending this rule to reflect current terminology and to reference appropriate rules.

ARM 37.34.1402

The rule refers to providers contracting with the department. However, DDP has transitioned to a provider enrollment process and uses the term "DDP qualified service provider" in DDP's current 0208 Comprehensive HCBS waiver program. Accordingly, the department proposes to amend this rule to reflect this terminology and the shift from individual contracts with DDP providers to a provider enrollment process.

ARM 37.34.1404

The rule defines terms applicable to Behavior Supports, but some of the definitions are inconsistent with the utilization of such terms in DDP's recently updated Incident Management Manual. Accordingly, the department proposes to update the terms "medically related restraint" and "safety device" to be consistent with DDP's Incident Management Manual. Additionally, the department proposes adding the following definitions recommended by the SB 5 group for clarity: "chemical restraint," "coercion," "safety science," "therapeutic care," and "trauma informed care."

ARM 37.34.1405

The rule offers a description of the Positive Behavior Supports services. Based on the advice of the SB 5 group, the department proposes to repeal the rule as unnecessary and duplicative. The important provisions and requirements are repeated in ARM 37.34.1401, 37.34.1402, and 37.34.1412.

ARM 37.34.1411

The rule uses the term “functional behavior assessment”; the department proposes to replace it with the term “behavior assessment.” The SB 5 group also advised DDP that the information that the assessment requires needed to be updated. Accordingly, the department proposes to update outdated terminology and to update the list of information the behavior assessment must include to be more succinct.

ARM 37.34.1412

The rule uses the term “functional behavior assessment,” which the department proposes to change to “behavior assessment.” The SB 5 group advised DDP that the information that the Behavior Support Plan must include should be updated. The department proposes to update the outdated terminology and to update the list of required information for completing the Behavior Support Plan to be more succinct and clear. In addition, the rule currently references ARM 37.34.1420(4). However, the department proposes to substantially change ARM 37.34.1420(4), such that this reference is no longer accurate; the department, thus, proposes to remove the cross-reference in this rule.

ARM 37.34.1418

This rule establishes prohibitions against certain practices or restrictions. The SB 5 group recommended expanding this list to include prohibitions against the restriction of therapeutic care, voting rights, grievance processes, corporal punishment, verbal or physical abuse, exclusion time, physical restraint, mechanical restraint, chemical restraint, physical enforcement, restitutive overcorrection, seclusion, and coercion. The department considered the recommendations and, accordingly, proposes to amend this rule to include such prohibitions.

ARM 37.34.1420

This rule establishes guidelines for the use of physical restraints during authorized emergency procedures. The SB 5 group recommended including language to say physical restraint:

1. may only be used as a last resort,
2. must not result in harm or injury, and
3. must be for the shortest duration possible.

The SB 5 group also recommended adding documentation requirements for incident reporting when physical restraints are used. The department proposes to amend this rule to include the recommended language.

ARM 37.34.1422

The rule allows certain restricted procedures to be used for up to 90 calendar days as a part of a behavior support plan in accordance with ARM 37.34.1412 and approved in accordance with the requirements and conditions associated with contingent access to personal possessions, contingent access to personal funds, contingent access to social activities, and response cost. The SB 5 group recommended adding contingent access to technology and specific community locations as well as removing physically enforced contingencies as these are prohibited restraints. The department proposes to amend this rule in accordance with these recommendations, as well as address who must approve these restrictive procedures.

Fiscal Impact

The department does not anticipate a fiscal impact.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the department. 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 emailed, mailed or otherwise delivered to the contact person above.

Bill Sponsor Notification

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

Small Business Impact

Pursuant to 2-4-111, MCA, the department has determined that the rule changes proposed in this notice will not have a significant and direct impact upon small businesses.

Medicaid Performance-Based Statement

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.

Rule Reviewer

Olivia Schuler

Approval

Charles T. Brereton, Director
Department of Public Health and Human Services