



MONTANA
ADMINISTRATIVE
REGISTER



DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF ADOPTION

MAR NOTICE NO. 2025-524.2

Summary

Amendment of ARM 37.40.1402, 37.40.1406, and 37.40.1415 and repeal of ARM 37.40.1436 and 37.40.1438 pertaining to community supports and supported living services

Previous Notice(s) and Hearing Information

On July 25, 2025, the Department of Public Health and Human Services published MAR Notice No. 2025-524.1 pertaining to the public hearing on the proposed amendment of the above-stated rules in the 2025 Montana Administrative Register, Issue Number 14.

A hearing was held on August 15, 2025.

Final Rulemaking Action – Effective November 22, 2025

AMEND AS PROPOSED

The agency has amended the following rules as proposed:

37.40.1402 HOME AND COMMUNITY-BASED SERVICES FOR ELDERLY AND PHYSICALLY DISABLED PERSON: DEFINITIONS

37.40.1406 HOME AND COMMUNITY-BASED SERVICES FOR ELDERLY AND PHYSICALLY DISABLED PERSONS: SERVICES

37.40.1415 HOME AND COMMUNITY BASED SERVICES FOR ELDERLY AND PHYSICALLY DISABLED PERSONS: REIMBURSEMENT

REPEAL

The agency has repealed the following rules as proposed:

37.40.1436 HOME AND COMMUNITY-BASED SERVICES FOR ELDERLY AND PHYSICALLY DISABLED PERSONS: COMMUNITY SUPPORTS SERVICES, REQUIREMENTS

37.40.1438 HOME AND COMMUNITY-BASED SERVICES FOR ELDERLY AND PHYSICALLY DISABLED PERSONS: SUPPORTED LIVING, REQUIREMENTS

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

Comment #1: A commenter acknowledged the need for unbundling of Big Sky Bonanza services pursuant to direction from the Centers for Medicare & Medicaid Services (CMS), but expressed concern regarding the availability of comparable services and sought clarification as to whether the unbundling of services extends to the Developmental Disabilities (DD) Waiver Program. The commenter noted that individuals with disabilities or traumatic brain injuries often rely on the instrumental activities of daily living (IADL) supports and questioned how services will be provided going forward without duplication or loss of access. The commenter requested clarification on how services will be coordinated across waivers to ensure continuity of care.

Response #1: The department appreciates the concerns raised regarding the unbundling of Big Sky Bonanza services. CMS requires clear separation of services across federal authorities to ensure compliance and prevent duplication. The department is committed to maintaining member access to necessary supports, including IADL services, and will align service delivery to ensure individuals do not experience a loss of care. Members who qualify for services through Community First Choice Services will continue to access those services as described in the Statement of Reasonable Necessity, and waiver services will remain available to eligible participants.

The unbundling of services only applies to the Big Sky Waiver program and does not extend to the DD Waiver program. The department will continue coordination across waiver programs, including the SDMI Waiver and the DD Waiver, to ensure individuals with disabilities or brain injuries receive the supports necessary to live and participate in their communities.

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Rule Reviewer

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Approval

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Department of Public Health and Human Services