



MONTANA
ADMINISTRATIVE
REGISTER



DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF ADOPTION

MAR NOTICE NO. 2026-113.2

Summary

Amendment of ARM 37.40.307 pertaining to Nursing Facility Reimbursement

Previous Notice(s) and Hearing Information

On July 24, 2026, the Department of Public Health and Human Services published MAR Notice No. 2026-113.1 pertaining to the public hearing on the proposed amendment of the above-stated rule in the 2026 Montana Administrative Register, Issue Number 14.

A hearing was held on August 13, 2026.

Final Rulemaking Action – The department intends for this rule amendment to be retroactively effective to July 1, 2026. A retroactive application of the rule amendment does not result in a negative impact to any affected party.

AMEND AS PROPOSED

The agency has amended the following rule as proposed:

37.40.307 NURSING FACILITY REIMBURSEMENT

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: Several commenters requested that the department reconsider the decision not to implement a provider rate increase for skilled nursing facilities for SFY 2027.

RESPONSE #1: As set forth in the statement of reasonable necessity within the Notice of Proposed Rulemaking, the department's decision was based on projected budget shortfalls and was made following a comprehensive review of options to ensure the continued stability of Montana's Medicaid program. The circumstances underlying the department's decision remain unchanged, and the department continues to believe that implementing a provider rate increase would be fiscally unsound and that forgoing such an increase is necessary to ensure the continued stability of Montana's Medicaid program.

COMMENT #2: Several commenters indicated that maintaining the same reimbursement rate from SFY 2026 for SFY 2027 does not account for increases in staffing, insurance, and other costs associated with operating skilled nursing facilities. The commenters indicated that this places an additional financial burden on skilled nursing facilities, and that an insufficient reimbursement rate could impact the workforce and access to care.

RESPONSE #2: In balancing the factors that may be considered under 53-6-113, MCA, and ARM 37.40.307(2) to establish the rate, the department primarily considered availability of appropriated funds and availability of services. These factors were considered in the context of projected budgetary shortfalls and the need to ensure the continued stability of Montana's Medicaid program, as described in the statement of reasonable necessity.

COMMENT #3: Several commenters indicated the proposed rate does not cover cost of care.

RESPONSE #3: Please see the responses to comments #1 and #2.

COMMENT #4: A commenter indicated the proposed rate is retroactive and facilities will continue billing at currently loaded rates until the rule is formally adopted, which will require the department to perform a mass adjustment to reconcile all claims back to July 1, 2026.

RESPONSE #4: The department posted a provider notice on June 30, 2026, providing notice of the proposed fee schedule. Information was provided in this notice that the updates would be incorporated into the claims processing system before July 1, 2026, meaning no subsequent claim adjustments are needed.

COMMENT #5: A commenter indicated that a rate freeze shifts costs elsewhere, such as to emergency departments and hospitals.

RESPONSE #5: Please see the responses to comments #1 and #2.

COMMENT #6: Several commenters expressed concern that the SFY 2027 reimbursement rate does not reflect the rate increase authorized by the legislature. These commenters indicated they were anticipating a rate increase and had budgeted accordingly.

RESPONSE #6: Please see the responses to comments #1 and #2.

COMMENT #7: Several commenters stated rural nursing facilities will be impacted by not having a rate increase due to ongoing issues with maintaining adequate staff and other costs of care.

RESPONSE #7: Please see the responses to comments #1 and #2. The department will continue to evaluate barriers and solutions to successful service delivery. The department remains committed to strong collaboration with stakeholders to modernize the nursing facility reimbursement methodology and promote long-term sustainability in nursing facilities, particularly in rural communities.

COMMENT #8: Several commenters expressed concern about the relationship between the base rate and being able to maintain the quality component without additional rate increases.

RESPONSE #8: The department recognizes this relationship and is in the process of launching an initiative to modernize the nursing facility reimbursement methodology.

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Approval

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