

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.82.1107 pertaining to)
medically needy living allowance)
deduction)

TO: All Concerned Persons

1. On August 5, 2022, the Department of Public Health and Human Services published MAR Notice No. 37-1008 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1536 of the 2022 Montana Administrative Register, Issue Number 15.

2. The department has amended the above-stated rule as proposed.

3. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: Three commenters offered general support for the increased personal needs allowance and annual cost of living adjustment (COLA).

RESPONSE #1: The department agrees that increasing the personal needs allowance and annual COLA will benefit many disabled and aged individuals.

COMMENT #2: One commenter provided comments about wanting a different baseline for the working disabled and those in assisted living facilities.

RESPONSE #2: While the department appreciates the feedback, this is outside the scope of this rulemaking package.

COMMENT #3: One commenter provided comments about overhauling the entire Medicaid program, specifically the Medically Needy, Waiver, and Expansion populations.

RESPONSE #3: While the department appreciates the feedback, this is outside the scope of this rulemaking package.

COMMENT #4: Two commenters provided comments about the assisted living room and board rates. Specifically, these commenters suggested that assisted living facilities should also receive a rate increase for room and board, allowing facilities to charge more and capture all, or a portion of, the increased amount of funds available to Medicaid-covered residents under these proposed rule changes.

One of the commenters also expressed concern that Medicaid recipients would experience an accumulation of resources under these proposed changes, which could affect their eligibility.

RESPONSE #4: The department thanks the commenters for their comments. The assisted living room and board rates are outside the scope of this rulemaking package. The department believes it has met the legislative intent of the appropriation to increase the amount of funds available to Montanans participating in the Medically Needy program to spend on non-medical related living expenses, which are broader than room and board.

Additionally, the department maintains its position that the personal needs allowance has not been adjusted for years and has not kept pace with inflation, making these changes necessary. The department does not anticipate that these rule changes will result in eligibility-affecting accumulations of funds.

COMMENT #5: One commenter provided comments about the impact on small business and the effective date of the rule.

RESPONSE #5: The rule does not have an impact to small business. The proposed increase in the living allowance deduction impacts individuals. The effective date for this rule is retroactive to January 1, 2022, which is allowable because a retroactive application of the proposed rule amendment does not result in a negative impact to any affected party.

/s/ HEIDI SANDERS
Heidi Sanders
Rule Reviewer

/s/ CHARLES T. BRERETON
Charles T. Brereton, Director
Department of Public Health and Human
Services

Certified to the Secretary of State September 13, 2022.