

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

In the matter of amendment of ARM ) NOTICE OF PUBLIC HEARING ON  
37.79.326, 37.85.104, 37.85.105, ) PROPOSED AMENDMENT  
37.85.106, 37.86.3607, and )  
37.87.1226 pertaining to updating )  
Medicaid and non-Medicaid provider )  
rates, fee schedules, and effective )  
dates )

TO: All Concerned Persons

1. On July 27, 2023, at 9:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rules. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/81242426949?pwd=OVVCWWRiMwYrMk1CemV5T0dXYk9zQT09>, meeting ID: 851 8640 3053, and password: 977532; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 851 8640 3053, and password: 977532. Find your local number: <https://mt-gov.zoom.us/j/81242426949?pwd=OVVCWWRiMwYrMk1CemV5T0dXYk9zQT09>.

2. The Department of Public Health and Human Services 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. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on July 13, 2023, to advise us of the nature of the accommodation that you need. Please contact Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail [hhsadminrules@mt.gov](mailto:hhsadminrules@mt.gov).

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.79.326 DENTAL BENEFITS (1) remains the same.

(2) Providers must bill for services using the procedure codes and modifiers set forth, and according to the definitions contained in the American Dental Association Manual of Current Dental Terminology (~~CDT 2022~~) (CDT 2023).

(3) Effective ~~July 1, 2022~~ July 1, 2023, only the dental procedures listed at <http://dphhs.mt.gov/hmk> are benefits of the HMK coverage group Dental Program.

(4) through (6) remain the same.

AUTH: 53-4-1004, 53-4-1005, 53-4-1009, 53-4-1105, MCA

IMP: 53-4-1003, 53-4-1004, 53-4-1005, 53-4-1009, 53-4-1104, 53-4-1105, MCA

37.85.104 EFFECTIVE DATES OF PROVIDER FEE SCHEDULES FOR MONTANA NON-MEDICAID SERVICES (1) remains the same.

(a) Mental health crisis services, as provided in ARM 37.88.101, is effective ~~October 1, 2022~~ July 1, 2023.

(b) remains the same.

(c) Youth respite care services, as provided in ARM 37.87.2203, is effective ~~July 1, 2022~~ July 1, 2023.

(d) Substance use disorder services provider reimbursement, as provided in ARM 37.27.905, is effective ~~October 1, 2022~~ July 1, 2023.

(2) Copies of the department's current fee schedules are posted at <http://medicaidprovider.mt.gov> and ~~may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1401 East Lockett, P.O. Box 202951, Helena, MT 59620-2951.~~ A description of the method for setting the reimbursement rate and the administrative rules applicable to the covered services are published in the chapter or subchapter of this title regarding that service.

AUTH: 53-2-201, 53-6-101, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, MCA

37.85.105 EFFECTIVE DATES, CONVERSION FACTORS, POLICY ADJUSTERS, AND COST-TO-CHARGE RATIOS OF MONTANA MEDICAID PROVIDER FEE SCHEDULES (1) The Montana Medicaid Program establishes

provider reimbursement rates for medically necessary, covered services based on the estimated demand for services and the legislative appropriation and federal matching funds. Provider reimbursement rates are stated in fee schedules for covered services applicable to the identified Medicaid program. New rates are established by revising the identified program's fee schedule and adopting the new fees as of the stated effective date of the schedule. Copies of the department's current fee schedules are posted at <http://medicaidprovider.mt.gov> and ~~may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1401 East Lockett, P.O. Box 202951, Helena, MT 59620-2951.~~ A description of the method for setting the reimbursement rate and the administrative rules applicable to the covered service are published in the chapter or subchapter of this title regarding that service. The department will make periodic updates, as necessary, to the fee schedules noted in this rule to include new procedure codes and applicable rates and to remove terminated procedure codes.

(2) remains the same.

(a) Resource-based relative value scale (RBRVS) means the version of the Medicare resource-based relative value scale contained in the Medicare Physician Fee Schedule adopted by the Centers for Medicare & Medicaid Services (CMS) of the U.S. Department of Health and Human Services and published at ~~86 Federal Register 64996 (Nov. 19, 2021)~~ 87 Federal Register 69404 (Nov. 18, 2022), effective ~~January 1, 2022~~ January 1, 2023, which is adopted and incorporated by reference. Procedure codes created after January 1, 2023, will be reimbursed using the relative value units from the Medicare Physician Fee Schedule in place at the time the procedure code is created.

(b) Fee schedules are effective ~~January 1, 2023~~ July 1, 2023. The conversion factor for physician services is ~~\$42.29~~ \$44.32. The conversion factor for allied services is ~~\$25.34~~ \$26.13. The conversion factor for mental health services is ~~\$21.69~~ \$22.67. The conversion factor for anesthesia services is \$30.57.

(c) and (d) remain the same.

(e) The payment-to-charge ratio is effective ~~July 1, 2022~~ July 1, 2023, and is ~~43.8%~~ 46.8% of the provider's usual and customary charges.

(f) through (h) remain the same.

(i) Optometric services receive a ~~115.33%~~ 115.50% provider rate of reimbursement adjustment to the reimbursement for allied services, as provided in ARM 37.85.105(2), effective ~~July 1, 2022~~ July 1, 2023.

(j) through (3)(b) remain the same.

(i) the Outpatient Prospective Payment System (OPPS) fee schedule as published by the CMS in ~~86 Federal Register 63458 (Nov. 16, 2021)~~ 87 Federal Register 71748 (Nov. 23, 2022), effective ~~January 1, 2022~~ January 1, 2023, and reviewed annually by CMS, as required in 42 CFR 419.50 ~~(2016)~~ and as updated by the department;

(ii) the conversion factor for outpatient services on or after ~~October 1, 2022~~ July 1, 2023 is ~~\$56.14~~ \$58.39;

(iii) the Medicaid statewide average outpatient cost-to-charge ratio is ~~41.06%~~ 48.95%; and

(iv) the bundled composite rate of ~~\$260.60~~ \$271.02 for services provided in an outpatient maintenance dialysis clinic effective on or after ~~July 1, 2022~~ July 1, 2023.

(c) The hearing aid services fee schedule, as provided in ARM 37.86.805, is effective ~~January 1, 2023~~ July 1, 2023.

(d) The Relative Values for Dentists, as provided in ARM 37.86.1004, reference published in ~~2022~~ 2023 resulting in a dental conversion factor of ~~\$35.48~~ \$36.90 and fee schedule is effective ~~January 1, 2023~~ July 1, 2023.

(e) The Dental and Denturist Program Provider Manual, as provided in ARM 37.86.1006, is effective ~~July 1, 2022~~ July 1, 2023.

(f) The outpatient drugs reimbursement dispensing fees range, as provided in ARM 37.86.1105(3)(b), is effective ~~July 1, 2022~~ July 1, 2023:

(i) for pharmacies with prescription volume between 0 and 39,999, the minimum is ~~\$4.32~~ \$5.11 and the maximum is ~~\$15.73~~ \$16.36;

(ii) for pharmacies with prescription volume between 40,000 and 69,999, the minimum is ~~\$4.32~~ \$5.11 and the maximum is ~~\$13.62~~ \$14.16; or

(iii) for pharmacies with prescription volume greater than or equal to 70,000, the minimum is ~~\$4.32~~ \$5.11 and the maximum is ~~\$11.52~~ \$11.98.

(g) remains the same.

(h) The outpatient drugs reimbursement vaccine administration fee, as provided in ARM 37.86.1105(6), will be \$21.32 for the first vaccine and ~~\$15.65~~ \$18.65 for each additional administered vaccine, effective ~~July 1, 2022~~ July 1, 2023.

(i) remains the same.

(j) The home infusion therapy services fee schedule, as provided in ARM 37.86.1506, is effective ~~July 1, 2022~~ July 1, 2023.

(k) Montana Medicaid adopts and incorporates by reference the Region D Supplier Manual, effective ~~April 1, 2023~~ July 1, 2023, which outlines the Medicare coverage criteria for Medicare covered durable medical equipment, local coverage determinations (LCDs), and national coverage determinations (NCDs), as provided in ARM 37.86.1802, effective ~~April 1, 2023~~ July 1, 2023. The prosthetic devices, durable medical equipment, and medical supplies fee schedule, as provided in ARM 37.86.1807, is effective ~~April 1, 2023~~ July 1, 2023.

(l) The nutrition services fee schedule, as provided in ARM 37.86.2207(2), is effective ~~July 1, 2022~~ July 1, 2023.

(m) remains the same.

(n) The orientation and mobility specialist services fee schedule, as provided in ARM 37.86.2207(2), is effective ~~July 1, 2022~~ July 1, 2023.

(o) The transportation and per diem fee schedule, as provided in ARM 37.86.2405, is effective ~~July 1, 2022~~ July 1, 2023.

(p) The specialized nonemergency medical transportation fee schedule, as provided in ARM 37.86.2505, is effective ~~July 1, 2022~~ July 1, 2023.

(q) The ambulance services fee schedule, as provided in ARM 37.86.2605, is effective ~~January 1, 2023~~ July 1, 2023.

(r) The audiology fee schedule, as provided in ARM 37.86.705, is effective ~~January 1, 2023~~ July 1, 2023.

(s) The therapy fee schedules for occupational therapists, physical therapists, and speech therapists, as provided in ARM 37.86.610, are effective ~~January 1, 2023~~ July 1, 2023.

(t) The optometric services fee schedule, as provided in ARM 37.86.2005, is effective ~~January 1, 2023~~ July 1, 2023.

(u) The chiropractic fee schedule, as provided in ARM 37.85.212(2), is effective ~~July 1, 2022~~ July 1, 2023.

(v) The lab and imaging services fee schedule, as provided in ARM 37.85.212(2) and 37.86.3007, is effective ~~January 1, 2023~~ July 1, 2023.

(w) The Targeted Case Management for Children and Youth with Special Health Care Needs fee schedule, as provided in ARM 37.86.3910, is effective ~~July 1, 2022~~ July 1, 2023.

(x) The Targeted Case Management for High-Risk Pregnant Women fee schedule, as provided in ARM 37.86.3415, is effective ~~July 1, 2022~~ July 1, 2023.

(y) The mobile imaging services fee schedule, as provided in ARM 37.85.212, is effective ~~January 1, 2023~~ July 1, 2023.

(z) The licensed direct-entry midwife fee schedule, as provided in ARM 37.85.212, is effective ~~January 1, 2023~~ July 1, 2023.

(aa) The private duty nursing services fee schedule, as provided in ARM 37.86.2207(2), is effective ~~July 1, 2022~~ July 1, 2023.

(4) remains the same.

(a) The Big Sky Waiver home and community-based services for elderly and physically disabled persons fee schedule, as provided in ARM 37.40.1421, is effective ~~July 1, 2022~~ July 1, 2023.

(b) The home health services fee schedule, as provided in ARM 37.40.705, is effective ~~July 1, 2022~~ July 1, 2023.

(c) The personal assistance services fee schedule, as provided in ARM 37.40.1135, is effective ~~July 1, 2022~~ July 1, 2023.

(d) The self-directed personal assistance services fee schedule, as provided in ARM 37.40.1135, is effective ~~July 1, 2022~~ July 1, 2023.

(e) The community first choice services fee schedule, as provided in ARM 37.40.1026, is effective ~~July 1, 2022~~ July 1, 2023.

(5) remains the same.

(a) The mental health center services for adults fee schedule, as provided in ARM 37.88.907, is effective ~~October 1, 2022~~ July 1, 2023.

(b) The home and community-based services for adults with severe disabling mental illness fee schedule, as provided in ARM 37.90.408, is effective ~~July 1, 2022~~ July 1, 2023.

(c) The substance use disorder services fee schedule, as provided in ARM 37.27.905, is effective ~~October 1, 2022~~ July 1, 2023.

(6) For the Behavioral Health and Developmental Disabilities Division, the department adopts and incorporates by reference the Medicaid youth mental health services fee schedule, as provided in ARM 37.87.901, effective ~~May 12, 2023~~ July 1, 2023.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-125, 53-6-402, MCA

37.85.106 MEDICAID BEHAVIORAL HEALTH TARGETED CASE MANAGEMENT FEE SCHEDULE (1) remains the same.

(2) The Department of Public Health and Human Services (department) adopts and incorporates by reference the Medicaid Behavioral Health Targeted Case Management Fee Schedule effective ~~July 1, 2022~~ July 1, 2023, for the following programs within the Behavioral Health and Developmental Disabilities Division:

(a) through (c) remain the same.

(3) Copies of the department's current fee schedules are posted at <http://medicaidprovider.mt.gov> and may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1401 East Lockey, P.O. Box 202951, Helena, MT 59620-2951.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-113, MCA

37.86.3607 CASE MANAGEMENT SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES, REIMBURSEMENT (1) Reimbursement for the delivery by provider entities of Medicaid funded targeted case management services to persons with developmental disabilities is provided as specified in the Montana Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures for Targeted Case Management Services for Individuals with Developmental Disabilities Enrolled in the 1915(c) 0208 Home and Community Based (HCBS) Comprehensive Waiver or Eligible Individuals Age 16 and Over, dated ~~July 1, 2022~~ July 1, 2023.

(2) The department adopts and incorporates by this reference the Montana Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures for Targeted Case Management Services for Individuals with Developmental Disabilities Enrolled in the 1915(c) 0208 Home and Community Based (HCBS) Comprehensive Waiver or Eligible Individuals Age 16 and Over, dated July 1, 2022 ~~July 1, 2023~~. ~~A copy of the manual may be obtained through the Department of Public Health and Human Services, Behavioral Health and Developmental Disabilities Division, Developmental Disabilities Program, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210 and at <https://dphhs.mt.gov/dsd/developmentaldisabilities/ddpratesinf>~~ The manual is posted at <https://dphhs.mt.gov/bhdd/disabilityservices/developmentaldisabilities/ddpratesinf>.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

37.87.1226 OUT-OF-STATE PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY SERVICES, REIMBURSEMENT (1) ~~Reimbursement for the out-of-state Psychiatric Residential Treatment Facility (PRTF) is established in the department's Medicaid fee schedule, as adopted in ARM 37.85.105. The maximum daily rate paid to an out-of-state PRTF facility is equal to 133% of the in-state PRTF rate. The in-state PRTF rate published in the Medicaid Mental Health Youth Under 18 Fee Schedule referenced at ARM 37.85.105. The Montana Medicaid Program will reimburse a provider of inpatient psychiatric services provided to a youth in a psychiatric residential treatment facility (PRTF) for each patient day, in accordance with the requirements of this subchapter and the Children's Mental Health Bureau Medicaid Services Provider Manual, adopted and incorporated by reference in ARM 37.87.903.~~

(2) The Montana Medicaid Program will reimburse a provider for each Medicaid patient day the following bundled per diem rate less any third party or other payments. The bundled per diem rate for out-of-state PRTF services is the lesser of:

(a) the amount specified in the department's Medicaid Youth Mental Health fee schedule, as adopted in ARM 37.85.105; or

(b) the provider's usual and customary charges.

~~(2)(3)~~ (3) The bundled per diem rate for out-of-state PRTFs services coverage includes the following services:

(a) all services, therapies, and items related to treating the psychiatric condition of the youth;

(b) through (e) remain the same.

(3) and (4) remain the same but are renumbered (4) and (5).

AUTH: 53-6-101, MCA

IMP: 53-6-113, MCA

#### 4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.79.326, 37.85.104, 37.85.105, 37.85.106, and 37.86.3607 pertaining to updating Medicaid and non-Medicaid provider rates, fee schedules, and effective dates. The department administers the Montana Medicaid and non-Medicaid program to provide health care to Montana's qualified low income, elderly, and disabled residents. Medicaid is a public assistance program paid for with state and federal funds appropriated to pay health care providers for the covered medical services they deliver to Medicaid members.

Pursuant to 53-6-113, MCA, the Montana Legislature has directed the department to use the administrative rulemaking process to establish rates of reimbursement for covered medical services provided to Medicaid members by Medicaid providers. The department proposes these rule amendments to establish Medicaid rates of reimbursement. In establishing the proposed rates, the department considered as primary factors the availability of funds appropriated by the Montana legislature during the 2023 regular legislative session, the actual cost of services, and the availability of services.

Proposed changes to provider rates that are the subject of this rule notice, including rates in fee schedules and rates in provider manuals, can be found at <https://medicaidprovider.mt.gov/proposedfs>.

#### Proposed Increases for Four Categories of Rates Studied by Guidehouse

In 2021, the Montana Legislature directed the department to contract with an independent health care consulting firm to conduct a comprehensive rate review of services provided through the Adult Behavioral Health, Children's Mental Health, Developmental Disabilities, and Senior and Long Term Care programs. The department contracted with Guidehouse, a consulting firm, to conduct the multifaceted study of Medicaid rates within the four programs and make recommendations for rate increases. Through this rule notice, the department proposes to apply funding appropriated by the 2023 legislature across all studied rates using the methodology recommended by Guidehouse. To reduce existing disparities in rates, this methodology increases rates by a percentage of the difference between current and benchmark rates. The department is proposing to increase rates by funding about 70% of the "gap" between the current rate and the benchmark rate and bring these rates up to an average of 94% of the Guidehouse benchmark, effective July 1, 2023. Overall, this methodology results in an increase in funding for studied rates of approximately 18%, effective July 1, 2023. The specific rate increase for each service is dependent upon the difference between the current rate and the Guidehouse benchmark rate. The following fee schedules have proposed rates that were recommended by the Guidehouse study: Medicaid Youth Mental Health Fee Schedule; Medicaid Behavioral Health Targeted Case Management Fee Schedule; Targeted Case Management Services for Individuals with Developmental Disabilities Enrolled in the 1915 (c) 0208 Home and Community Based (HCBS) Comprehensive Waiver; Medicaid Mental Health Center Services for Adults; Medicaid Substance Use Disorder Services; Home and Community-Based

Services for Adults with Severe Disabling Mental Illness; Non-Medicaid Mental Health Crisis Services; and Non-Medicaid Substance Use Disorder Services.

#### Proposed Increase For Provider Rates Not Studied by Guidehouse

The 2023 legislature appropriated funds for a provider rate increase of 4% for the state fiscal year 2024 for provider rates that were not part of the Guidehouse study. The department considered all factors in proposing these rates, and the proposed rates represent a weighted average rate increase of 4%.

#### Mobile Crisis Services

Additionally, the proposed amendments represent the state's commitment to further expand coverage and promote access to crisis services for eligible Montanans by adding mobile crisis services for both the Medicaid and non-Medicaid programs.

#### Miscellaneous

As provided in 2-4-307(3)(a)(ii), MCA, fee schedules and manuals adopted by reference in rules must be available to the public on the agency's website. Accordingly, the department proposes to remove outdated references to the department's physical addresses but maintain links to the agency's website as the method for obtaining or viewing the information.

The following sections explain proposed amendments to the following specific subsections: ARM 37.79.326, 37.85.104, 37.85.105, 37.85.106, 37.86.3607, and 37.87.1226.

#### ARM 37.79.326(2), (3) Dental Benefits

The department proposes to update the HMK Dental fee schedule to align services with the state employee benchmark plan changes and reflect new procedure code updates, additions or deletions, and changes to existing code descriptions. The amendments also include updates to the Current Dental Terminology (CDT) codebook from 2022 to 2023. The department also proposes to update the effective date of the covered dental procedures list to July 1, 2023.

#### ARM 37.85.104 Effective Dates of Provider Fee Schedules for Montana Non-Medicaid Services

(1)(a), (c), and (d) Behavioral Health and Developmental Disabilities Division  
The department is proposing the adoption of fee schedules effective July 1, 2023. The above-listed subsections are for the following fee schedules -- Medicaid youth mental health services, mental health crisis services, and substance use disorder services.

Updates to the mental health crisis services and substance use disorder fee schedules include the addition of procedure codes for mobile crisis response services and crisis care coordination. This amendment is part of the department's Healing and Ending Addiction through Recovery and Treatment (HEART) Initiative. The HEART Initiative represents the state's commitment to expanding coverage and promoting access to prevention, crisis intervention, treatment, and recovery services



for eligible Montanans with mental health issues. Updates to all three fee schedules are necessary to reflect legislatively approved provider rate increases.

ARM 37.85.105 Effective Dates, Conversion Factors, Policy Adjusters, And Cost-To-Charge Ratios of Montana Medicaid Provider Fee Schedules

(2)(a) and (b) Resource-Based Relative Value Scale (RBRVS) Federal Register  
Effective July 1, 2023, the department is proposing to adopt the version of the RBRVS contained in the Medicare Physician Fee Schedule adopted by the Centers for Medicare & Medicaid Services (CMS) in the November 18, 2022, Federal Register (effective January 1, 2023) for the RBRVS reimbursement methodology. This adoption is necessary to incorporate the most up-to-date changes made by CMS.

(2)(b) RBRVS Conversion Factors (CF)

RBRVS rates are calculated by multiplying code-specific relative value units (RVU) by the applicable conversion factor. During the annual RBRVS reimbursement modeling process, the department considers all these factors in the aggregate using a weighted average based on utilization. The 2023 legislature appropriated funds for a provider rate increase of 4% for the state fiscal year 2024 for provider rates other than the rates studied by Guidehouse. Considering the pricing factors and the appropriated provider rate increase, the department proposes increases to the allied services and mental health services conversion factors. The proposed allied services conversion factor is \$26.13, and the proposed mental health services conversion factor is \$22.67. When the proposed conversion factor increases are applied against utilization and RVUs, the result is a weighted average rate increase of 4%.

For the physician services conversion factor, the department is directed by 53-6-125, MCA, to increase the conversion factor by the consumer price index for medical care for the previous year, which for this adjustment period is 4.8%. Physician services are not included in the 2023 legislature appropriated provider rate increase.

(2)(e) Payment- to- Charge Ratio

The payment-to-charge ratio, which is used to price some allowable procedures which do not have set reimbursement is proposed to be 46.8%, effective July 1, 2023. This ratio is updated annually as part of the department's annual RBRVS updates and will change when there are changes in the average provider charges and/or changes to reimbursement.

(2)(i) Optometric Services Provider Rate of Reimbursement (PRR)

The department is proposing to change the optometric services PRR, which is a pricing factor, to 115.50% of the reimbursement for allied services with an effective date of July 1, 2023. When this pricing factor is applied against utilization, relative value units, and proposed allied services conversion factor, optometrists and opticians will receive a weighted average provider rate increase of 4%, which is

consistent with the weighted average rate increase for providers not included in the Guidehouse study.

(3)(b)(i) Outpatient Prospective Payment System (OPPS) Federal Register

Effective July 1, 2023, the department is proposing to adopt the Outpatient Prospective Payment System fee schedule published by CMS in the November 23, 2022, Federal Register (effective January 1, 2023) for the OPPS reimbursement methodology. This adoption is necessary to ensure outpatient hospital updates are aligned with CMS.

(3)(b)(ii) Outpatient Prospective Payment System (OPPS) Conversion Factor

The department is proposing to increase the OPPS conversion factor to \$58.39, effective July 1, 2023, to effectuate the legislatively approved provider rate increase.

(3)(b)(iii) Medicaid Statewide Average Cost-to-Charge Ratio

The Medicaid statewide average cost-to-charge ratio is calculated utilizing submitted cost reports and is updated annually. The proposed updated cost-to-charge ratio is 48.95%. Individual hospital cost-to-charge ratios can fluctuate annually which can result in shifts to the Montana statewide average cost-to-charge ratio. This ratio is required to be updated annually to keep the ratio current.

(3)(b)(iv) Outpatient Maintenance Dialysis Clinic

The bundled composite rate for outpatient maintenance dialysis clinics is proposed to increase by 4% to \$271.02, effective July 1, 2023, to incorporate the provider rate increase approved by the Montana Legislature.

(3)(c), (j), (l), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), and (aa) Fee Schedules

The department is proposing the adoption of fee schedules effective July 1, 2023. The fee schedules incorporate changes due to the proposed amendments within this rule notice, including federal register changes, conversion factor updates, and legislatively required provider rate increases. The above-listed subsections are for the following fee schedules: hearing aid services; home infusion therapy services; nutrition services; orientation and mobility specialist services; transportation and per diem fee schedule; specialized non-emergency medical transportation; ambulance services, audiology services; occupational, physical, and speech therapy services; optometric services; Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) chiropractic services; lab and imaging services; Targeted Case Management (TCM) for Children and Youth with Special Health Care Needs; TCM for High-Risk Pregnant Women; mobile imaging services; licensed direct-entry midwife; and private duty nursing.

(3)(d) Dental Reimbursement

The department proposes three changes to this subsection: (1) adoption of the Relative Values for Dentist reference published in 2023; (2) modification of the dental conversion factor to \$36.90; and (3) adoption of the July 1, 2023, Dental Services fee schedules. These proposed changes are necessary to incorporate the

legislatively approved provider rate increase and to keep current with updated dental procedure codes.

(3)(e) Dental Provider Manual Update

The Dental Provider manual is proposed to be amended, effective July 1, 2023, to incorporate information and guidance from provider notices. Provider notices are archived after a few years. As a result, the department is incorporating pertinent information from such notices into the manual.

(3)(f) Outpatient Drugs Dispensing Fee

Annually, the department surveys enrolled pharmacies to establish the state fiscal year minimum dispensing fee. The results from the annual survey provide the data necessary to calculate the minimum dispensing fee, which is proposed to be \$5.11. The maximum dispensing fee, for each volume range, is proposed to increase to incorporate the legislatively approved provider rate increase.

(3)(h) Outpatient Drugs Reimbursement Vaccine Administration Fee

The department proposes to increase the fee paid for each additional vaccine administered to \$18.65. This change is necessary to maintain a vaccine administration fee aligned with the physician services rate.

(3)(k) Prosthetic Devices, Durable Medical Equipment, and Medical Supplies

The department proposes to adopt and incorporate by reference the Medicare Region D Supplier Manual effective July 1, 2023. This proposal is necessary to ensure the department adopts newly added, revised, or deleted Medicare coverage criteria for Medicare covered durable medical equipment, local coverage determinations (LCDs), and national coverage determinations (NCDs).

The department also proposes to revise the effective dates for the durable medical equipment fee schedule to July 1, 2023, to reflect the Calendar Year 2023 Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) fee schedule. This allows the department to update department-set fees, Medicare fees, additions, deletions, or changes to procedure codes when Medicare releases and updates its fee schedule.

(4) Senior Long Term Care

The department proposes the adoption of updated fee schedules effective July 1, 2023. The updated fee schedules implement a legislatively appropriated Medicaid provider rate increases for Community First Choice, Personal Assistance Services (CFC/PAS), Big Sky Waiver, and Home Health programs.

(5)(a), (b), (c) Behavioral Health and Developmental Disabilities Division

The department is proposing the adoption of fee schedules effective July 1, 2023. The above-listed subsections are for the following fee schedules: Mental Health Center Services for Adults, Home and Community-based Services for Adults with Severe Disabling Mental Illness, and Substance Use Disorder Services. Updates to the Mental Health Center Services for Adults and Substance Use Disorders Services

include the addition of procedure codes for mobile crisis response services and crisis care coordination. This amendment is part of the department's Healing and Ending Addiction through Recovery and Treatment (HEART) Initiative. The HEART Initiative represents the state's commitment to expanding coverage and promoting access to prevention, crisis intervention, treatment, and recovery services for eligible Montanans with mental health issues. Updates to all three fee schedules are necessary to reflect legislatively approved provider rate increases.

(6) Behavioral Health and Developmental Disabilities Division Medicaid youth mental health services fee schedule

The department proposes to update the Medicaid youth mental health services fee schedule, to incorporate the legislatively approved provider rate increase and change the effective date to July 1, 2023.

ARM 37.85.106 Medicaid Behavioral Health Targeted Case Management Fee Schedule

(2) Fee schedule

The department is proposing to amend ARM 37.85.106 to update the effective date of the Medicaid Behavioral Health Targeted Case Management Fee Schedule to July 1, 2023. This is necessary to update provider rates in accordance with funding appropriated by the Montana Legislature during the 2023 regular session.

ARM 37.86.3607 Case Management Services for Persons with Developmental Disabilities, Reimbursement

(1) and (2) Reimbursement

The department is proposing to amend ARM 37.86.3607 pertaining to reimbursement rates in the Targeted Case Management Services for Individuals with Developmental Disabilities Enrolled in the 1915 (c) 0208 Home and Community Based (HCBS) Comprehensive Waiver for Eligible Individuals Age 16 and over.

The rule amendment would adopt and incorporate an updated version of the manual dated July 1, 2023, to incorporate the legislatively approved provider rate increase. In addition, because the link to the manuals in regulation is now invalid, the department proposes to update it with a valid link.

ARM 37.87.1226(1) and (2) Out-of-State Psychiatric Residential Treatment Facility Services, Reimbursement

The department is proposing to amend ARM 37.87.1226(1) to align in-state and out-of-state reimbursement rates in accordance with changes to reimbursement methodology made in the 2023 legislative session. The department proposes to clarify that the bundled rate only includes services related to treat the psychiatric condition to align with current practice.

Fiscal Impact

The following table displays the number of providers affected by the amended fee schedules, effective dates, conversion factors, and rates for services for SFY 2024 based on the proposed amendments. The estimated fiscal impact below is based on the most recent utilization estimates for SFY24.

Provider Type	SFY 2024 Budget Impact (Federal Funds)	SFY 2024 Budget Impact (State Funds)	SFY 2024 Budget Impact (Total Funds)	Active Provider Count
Ambulance	\$384,905	\$106,944	\$491,849	233
Audiologist	\$6,650	\$2,873	\$9,523	94
BCBA/BCBA-D	\$44,216	\$24,820	\$69,036	56
Case Management Services for Persons with Developmental Disabilities	\$11,883	\$7,391	\$19,274	1
Chemical Dependency Clinic	\$152,034	\$28,025	\$180,059	62
Commercial Transportation	\$6,394	\$2,693	\$9,087	12
Community First Choice	\$12,970,713	\$5,116,558	\$18,087,271	43
Crisis Services	\$6,764,831	\$1,963,983	\$8,728,814	11
CSCT Children's Mental Health	\$48,369	\$26,545	\$74,914	451
Dental	\$2,075,677	\$860,620	\$2,936,297	740
Denturist	\$109,157	\$31,414	\$140,571	22
Dialysis Clinic	\$116,007	\$43,842	\$159,849	25
Durable Medical Equipment	\$130,858	\$48,862	\$179,720	525
EPSDT - Chiropractic	\$23,547	\$12,294	\$35,841	171
Free Standing Birthing Center	\$1,431	\$451	\$1,882	2
Hearing Aid Dispenser	\$4,780	\$2,181	\$6,961	40
Home & Community Based Services - Big Sky Waiver	\$5,718,747	\$3,208,468	\$8,927,215	284

Home & Community Based Services - SDMI Waiver	\$2,290,510	\$1,280,662	\$3,571,172	256
Home Health Agency	\$27,047	\$8,014	\$35,061	26
Home Infusion Therapy	\$66,170	\$26,021	\$92,191	16
Hospital - Outpatient	\$3,947,911	\$1,099,789	\$5,047,700	471
Independent Diagnostic Testing Facility	\$40,908	\$10,003	\$50,911	25
Laboratory	\$47,260	\$9,764	\$57,024	233
Licensed Clinical Social Worker	\$550,964	\$190,831	\$741,795	1,056
Licensed Professional Counselor	\$794,098	\$276,305	\$1,070,403	1,280
Licensed Marriage and Family Therapist	\$3,745	\$1,708	\$5,453	9
Mental Health Center	\$2,805,817	\$1,331,213	\$4,137,030	37
Mid-Level Practitioner	\$3,278,800	\$983,950	\$4,262,750	6,826
Mobile Imaging Service	\$2,820	\$881	\$3,701	2
Nutritionist/Dietician	\$5,011	\$2,468	\$7,479	176
Occupational Therapist	\$138,953	\$72,246	\$211,199	419
Optician	\$3,418	\$1,219	\$4,637	32
Optometrist	\$224,184	\$74,819	\$299,003	268
Orientation and Mobility	\$123	\$69	\$192	2
Personal Care Agency	\$176,854	\$80,935	\$257,789	74
Personal Care Agency - Adult MH	\$16,123	\$7,514	\$23,637	38
Personal Care Agency - Child MH	\$3,179	\$1,552	\$4,731	12

Pharmacy Dispensing Fee	\$1,113,877	\$286,669	\$1,400,546	481
Physical Therapist	\$297,796	\$80,193	\$377,989	1,254
Physician	\$7,755,137	\$2,345,954	\$10,101,091	15,282
Podiatrist	\$156,093	\$41,632	\$197,725	84
Private Duty Nursing Agency	\$1,067,936	\$601,758	\$1,669,694	5
Psychiatric Res Treatment Facility	\$2,037,071	\$1,111,025	\$3,148,096	31
Psychiatrist	\$402,096	\$136,247	\$538,343	390
Psychologist	\$39,155	\$12,956	\$52,111	308
Public Health Clinic	\$17,243	\$5,187	\$22,430	45
School Based Services	\$153,502	\$85,025	\$238,527	85
Speech Pathologist	\$95,717	\$52,719	\$148,436	376
Targeted Case Management - Children and Youth with Special Health Care Needs	\$1,296	\$612	\$1,908	19
Targeted Case Management - High Risk Pregnant Women	\$296	\$139	\$435	19
Targeted Case Management - Mental Health	\$327,249	\$124,638	\$451,887	23
Therapeutic Family Care	\$957,801	\$525,381	\$1,483,182	14
Therapeutic Group Home	\$1,069,047	\$592,200	\$1,661,247	27
Specialized Transportation	\$364	\$180	\$544	7
Provider Type	SFY 2024 Budget Impact	SFY 2024 Budget	SFY 2024 Budget	Active Provider Count

	(Federal Funds)	Impact (State Funds)	Impact (Total Funds)	
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5. The department intends these amendments to apply to services provided on or after July 1, 2023. Because of the rulemaking process, this means that the rates will be applied retroactively.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail [hhsadminrules@mt.gov](mailto:hhsadminrules@mt.gov), and must be received no later than 5:00 p.m., August 4, 2023.

7. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. 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 mailed or delivered to the contact person in 6 above.

9. An electronic copy of this notice is available on the department's web site at <https://dphhs.mt.gov/LegalResources/administrativerules>, or through the Secretary of State's web site at <http://sosmt.gov/ARM/register>.

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

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will significantly and directly impact small businesses. The table above identifies the group of small businesses probably affected by the proposed rule. The probable significant and direct effects of the proposed amendments on small businesses will be to increase reimbursement rates.

12. 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.

/s/ Brenda K. Elias  
Brenda K. Elias  
Rule Reviewer

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

Certified to the Secretary of State June 27, 2023.