

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.50.501, 37.50.502,) PROPOSED AMENDMENT AND
37.50.505, 37.50.510, and 37.50.511) REPEAL
and the repeal of ARM 37.50.506)
pertaining to foster care support)
services)

TO: All Concerned Persons

1. On February 2, 2024, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment and repeal 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/85199624992?pwd=SWp2UkRVTG9DZGI2Mmd0b2tFTDBXQT09>, meeting ID: 851 9962 4992, and password: 584274; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 851 9962 4992, and password: 584274. Find your local number: <https://mt-gov.zoom.us/u/kgpBclNlm>.

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 January 19, 2024, to advise us of the nature of the accommodation that you need. Please contact Bailey Yuhus, 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.

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

37.50.501 FOSTER CARE SUPPORT SERVICES, PURPOSE (1) The purpose of this subchapter is to establish eligibility criteria for foster care support services. Payment for foster care support services may be made on behalf of foster children who require diapers, ~~clothing,~~ respite care, ~~transportation (other than medically-related transportation)~~ and other specific special services which are not available from other sources.

AUTH: 41-3-1103, 53-2-201, 53-4-111, MCA
IMP: 41-3-1103, 53-4-111, MCA

37.50.502 FOSTER CARE SUPPORT SERVICES, DEFINITIONS For the purposes of this rule subchapter, the following definitions apply:

- (1) remains the same.
- (2) "Foster care support services" means a diaper allowance, ~~clothing allowance~~, respite care allowance, or other special need allowance paid on behalf of a foster child who has a documented need for such foster care support services.
- (3) remains the same.
- (4) ~~"Clothing allowance" means payments made on behalf of a foster child for clothing subject to the conditions and limitations set forth in ARM 37.50.506.~~
- (5) and (6) remain the same but are renumbered (4) and (5).

AUTH: 41-3-1103, 53-2-201, 53-4-111, MCA

IMP: 41-3-1103, 53-4-111, MCA

37.50.505 FOSTER CARE SUPPORT SERVICES, DIAPER ALLOWANCE

- (1) remains the same.
- (2) The amount of the diaper allowance is ~~\$40~~ 1.67 per month day per eligible child.

AUTH: 41-3-1103, 41-3-1142, 52-2-111, MCA

IMP: 41-3-1103, 41-3-1142, 52-2-111, MCA

37.50.510 FOSTER CARE SUPPORT SERVICES, SUPPLEMENTAL SERVICES ALLOWANCE (1) and (2) remain the same.

- (3) ~~A supplemental services allowance for transportation costs will be authorized only for foster children who must travel to secure necessary special educational or training services.~~
- (a) ~~To be eligible for reimbursement for transportation costs, the following requirements must be met:~~
 - (i) ~~travel one-way must be 10 or more miles;~~
 - (ii) ~~transportation is necessary to obtain services not reasonably available in closer proximity to foster parents'; residence; and~~
 - (iii) ~~transportation is approved in advance by the department.~~
- (4) ~~Supplemental services allowances shall be limited to the lesser of:~~
 - (a) ~~actual costs; or~~
 - (b) ~~\$87.50 per month per child.~~

AUTH: 41-3-1103, 53-2-201, 53-4-111, MCA

IMP: 41-3-1103, 53-4-111, MCA

37.50.511 FOSTER CARE SUPPORT SERVICES, RESPITE CARE ALLOWANCE (1) remains the same.

- (2) The amount of the respite care payment(s) shall not exceed:
 - (a) \$4 20.16 per hour per child for up to 8 continuous hours;
 - (b) ~~\$32~~ 161.28 per child for more than 8 hours and up to 24 hours.
- (3) remains the same.

AUTH: 41-3-1103, 53-2-201, 53-4-111, MCA
IMP: 41-3-1103, 53-4-111, MCA

4. The department proposes to repeal the following rule:

37.50.506 FOSTER CARE SUPPORT SERVICES, CLOTHING ALLOWANCE

AUTH: 41-3-1103, 53-2-201, 53-4-111, MCA
IMP: 41-3-1103, 53-4-111, MCA

5. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services, Child and Family Services (department) is proposing to amend ARM 37.50.501, 37.50.502, 37.50.505, 37.50.510 and 37.50.511 and to repeal ARM 37.50.506.

The following summary explains the reasonable necessity for the proposed rule amendments.

The department proposes to amend ARM 37.50.501, 37.50.502, 37.50.505, 37.50.510 and 37.50.511 as a result of budget changes within the Child and Family Services Division. The rates paid to foster care providers, which were incorporated in House Bill 2 that was passed in the 2023 legislative session, increased rates for diaper and respite allowances. The budget changes also combined clothing and transportation allowances into the overall foster care rate. These amendments reflect those changes.

The department proposes to repeal ARM 37.50.506. It is necessary to repeal this rule because clothing allowance is no longer a separate service that is provided or available to providers, but is now part of the current foster care rate paid to every provider.

The department's authorizing statutes are 52-2-603(1)(b) and (3), MCA, which state that the department shall exercise licensing authority over all youth foster homes, kinship foster homes, and shall pay for room, board, clothing, personal needs, and transportation in youth foster care homes.

Fiscal Impact

The proposed rule amendments have no anticipated fiscal impact implications.

The department intends to apply these proposed rule amendments retroactively to July 1, 2023. A retroactive application of the proposed rule amendments does not result in a negative impact to any affected party.

6. The department intends to apply these proposed rule amendments and repeal retroactively to July 1, 2023.

7. 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, and must be received no later than 5:00 p.m., February 9, 2024.

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

9. 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 paragraph 7.

10. 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>.

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

12. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Paula M. Stannard
Paula M. Stannard
Rule Reviewer

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

Certified to the Secretary of State January 2, 2024.