

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

In the matter of the repeal of ARM ) NOTICE OF PROPOSED REPEAL  
37.49.601 and 37.49.602 pertaining )  
to IV-E foster care services ) NO PUBLIC HEARING  
) CONTEMPLATED

TO: All Concerned Persons

1. The Department of Public Health and Human Services proposes to repeal the above-stated rules.

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 May 10, 2024, 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 MT 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov.

3. The department proposes to repeal the following rules:

37.49.601 IV-E FOSTER CARE ELIGIBILITY: PLACE OF APPLICATION

AUTH: 53-2-201, 53-6-113, MCA  
IMP: 53-2-201, 53-6-131, MCA

37.49.602 IV-E FOSTER CARE ELIGIBILITY: PERIODIC  
REDETERMINATIONS OF ELIGIBILITY

AUTH: 53-2-201, 53-6-113, MCA  
IMP: 53-2-201, 53-6-131, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (DPHHS) is proposing to repeal ARM 37.49.601 and 37.49.602.

ARM 37.49.601 was adopted in 1999, when the Department of Social and Rehabilitative Services (SRS), Office of Public Assistance (OPA) was responsible for determining the Title IV-E eligibility for youth in foster care.

In 2004, however, DPHHS established a Title IV-E Eligibility Unit in its Child and Family Services Division (CFSD). Responsibility for determining Title IV-E eligibility of foster youth was shifted to CFSD's Title IV-E Eligibility Unit. This change was made in response to the results of Montana's first Title IV-E review conducted in September 2000 by the federal Administration on Children, Youth, and Families (ACYF). OPA currently has no role in this process. Accordingly, DPHHS proposes to repeal ARM 37.49.601.

ARM 37.49.602, also adopted in 1999, states that the child's IV-E eligibility shall be investigated and redetermined every six months. When adopted, these requirements concerning IV-E eligibility determinations followed federal guidelines set forth by the Administration on Children, Youth, and Families (ACYF), a component of the Administration for Children and Families, an operating division of the U.S. Department of Health and Human Services.

Title IV-E eligibility and means testing are determined using the criteria in the State of Montana's 1996 Aid to Families with Dependent Children (AFDC) State Plan. The 1996 AFDC State Plan required an eligibility redetermination every six months. ACYF removed the Title IV-E redetermination requirement in 2010. CFSD's Title IV-E Eligibility Unit practice and Montana's Title IV-E State Plan were changed to reflect ACYF's guidance that redeterminations are no longer needed, but corresponding changes to administrative rules did not happen. Repealing ARM 37.49.602 will align CFSD's Title IV-E regulations with ACYF guidelines, current Title IV-E eligibility determination practices, and Montana's Title IV-E State Plan.

#### Fiscal Impact

The proposed rule repeals would have no anticipated fiscal impact.

5. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Bailey Yuhas, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena MT 59604-4210, no later than 5:00 p.m. on May 24, 2024. Comments may also be faxed to (406) 444-9744 or e-mailed to [hhsadminrules@mt.gov](mailto:hhsadminrules@mt.gov).

6. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Bailey Yuhas at the above address no later than 5:00 p.m., on May 24, 2024.

7. If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative

Register. Ten percent of those directly affected has been determined to be 210 kids based on 2,100 kids currently in foster care in Montana.

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 repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Mark Prichard  
Mark Prichard  
Rule Reviewer

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

Certified to the Secretary of State April 16, 2024.