



DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF ADOPTION

MAR NOTICE NO. 37-1065

Summary

Amendment of ARM 37.40.1002, 37.40.1005, and 37.40.1018 pertaining to community first choice services

Previous Notice(s) and Hearing Information

On July 26, 2024, the Department of Public Health and Human Services published MAR Notice No. 37-1065 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1784 of the 2024 Montana Administrative Register, Issue Number 14.

On September 6, 2024, the department published an amended notice on the proposed amendment of the above-stated rules at page 2129 of the 2024 Montana Administrative Register, Issue Number 17.

Final Rulemaking Action – Effective January 11, 2025

AMEND AS PROPOSED

The department has amended the following rules as proposed:

**37.40.1005 AGENCY-BASED AND SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES:
PERSON-CENTERED PLAN REQUIREMENTS**

37.40.1018 SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: PROVIDER REQUIREMENTS

AMEND WITH CHANGES

The department has amended the following rule with the following changes from the original proposal, stricken matter interlined, new matter underlined:

37.40.1002 AGENCY-BASED AND SELF-DIRECTED COMMUNITY FIRST CHOICE SERVICES: ELIGIBILITY, SERVICES PROVIDED, AND LIMITATIONS

(1) through (11) remain as proposed.

(12) Payment to legally responsible persons for CFCS is available when an individual requires extraordinary care as demonstrated by a state-approved functional assessment. ~~An individual is considered to require extraordinary care, as demonstrated by a state-approved functional assessment, when needs exceed the ordinary care that would be provided to a person without a disability of the same age. As used in this rule, the term “extraordinary care” means care exceeding the range of activities that a legally responsible individual would ordinarily perform in the household on behalf of a person without a disability or chronic illness of the same age, and which are necessary to ensure the health and welfare of the participant and avoid institutionalization.~~ A legally responsible person may also be paid for services that are not considered extraordinary when an individual is unable to access non-legally responsible personal care providers because of geographic, cultural, or other factors limiting availability of care providers. A legally responsible person is defined as a:

(a) and (b) remain as proposed.

(13) and (14) remain as proposed.

Authorizing statute(s): 53-2-201, MCA

Implementing statute(s): 53-2-201, 53-6-113, MCA

Statement of Reasons

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

Comment #1: A commenter inquired into the timeline for enrollment and discharge for Community First Choice Services when the recipient's services are temporary.

Response #1: While the department appreciates the comment, it is outside the scope of this rulemaking.

Comment #2: A commenter asked the department to define the meaning of “extraordinary care” regarding service delivery to members referenced in ARM 37.40.1002(12).

Response #2: The department agrees the term should be defined and has revised ARM 37.40.1002(12) to define “extraordinary care” as care exceeding the range of activities that a legally responsible individual would ordinarily perform in the household on behalf of a person without a disability or chronic illness of the same age, and which is necessary to ensure the health and welfare of the participant and avoid institutionalization.

Contact

Bailey Yuhas
(406) 444-4094
hhsadminrules@mt.gov
Fax: (406) 444-9744

Rule Reviewer

Robert Lishman

Approval

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