



MONTANA  
ADMINISTRATIVE  
REGISTER



DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

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**NOTICE OF ADOPTION**

**MAR NOTICE NO. 37-1086**

**Summary**

Amendment of ARM 37.40.1485 pertaining to Home and Community-Based Services for Elderly and Physically Disabled Persons: Environmental Accessibility

**Previous Notice(s) and Hearing Information**

On December 20, 2024, the Department of Public Health and Human Services published MAR Notice No. 37-1086 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 2608 of the 2024 Montana Administrative Register, Issue Number 24.

A public hearing was held on January 9, 2025.

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**Final Rulemaking Action – Effective April 26, 2025**

**AMEND AS PROPOSED**

The agency has amended the following rule as proposed:

**37.40.1485 HOME AND COMMUNITY-BASED SERVICES FOR ELDERLY AND PHYSICALLY  
DISABLED PERSONS: ENVIRONMENTAL ACCESSIBILITY ADAPTATION, REQUIREMENTS**

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**Statement of Reasons**

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

COMMENT #1: A commenter emphasized the importance of environmental accessibility adaptations and modifications for individuals receiving Big Sky Waiver (BSW) services. The commenter suggested revision of multiple unspecified administrative rules across each department waiver program for waiver services to be offered to individuals with disabilities who are eligible for Home and Community Based Services to account for individuals who have multiple or co-occurring disabilities. The commenter also expressed concern about implementation of the rule, including the availability of contractors familiar with the 2010 ADA standards and how multiple home modifications for members moving into new homes will be handled. Additionally, the commenter sought clarification on the “protections” available for members receiving temporary Big Sky Waiver slots and the duration contractors have to address issues that arise following installation of an environmental accessibility adaptation. The commenter expressed support for the rule’s allowance for only one bid under prior authorized services if a second contractor cannot be found.

RESPONSE #1: The department agrees with the commenter on the importance of environmental accessibility adaptations and modifications for individuals receiving BSW services. The suggestion to revise other unspecified rules governing department waiver programs is outside of the scope of this rulemaking. The 2010 ADA standards are nationally recognized standards that will help ensure that accessibility adaptations funded through BSW provide for the highest level of accessibility, promote independence, and enhance the quality of life for individuals who rely on the adaptations. The department believes contractors will be able to adhere to and follow these nationally recognized standards. If multiple modifications are needed, the department will review each adaptation individually to ensure it complies with requirements of the BSW program. Regarding concerns about protections available for members receiving temporary BSW slots, the same level of protection applies to members with both permanent and temporary slots. The department recognizes the importance of addressing issues that arise following installation of an environmental accessibility adaptation and is committed to addressing any issues promptly, to ensure the safety and functionality of the modifications for the member within the requirements of the BSW program.

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## **Contact**

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**Rule Reviewer**

Robert Lishman

**Approval**

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