

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 37.34.113 pertaining to) PROPOSED AMENDMENT
Certification of Persons Assisting in)
the Administration of Medication)

TO: All Concerned Persons

1. On September 26, 2024, at 11:00 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 rule. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/89114528756?pwd=VbgiMLnLNpM1gXobvAhFP6K9TbUnWH.1>, meeting ID: 891 1452 8756, and password: 337906; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 891 1452 8756, and password: 337906. Find your local number: <https://mt-gov.zoom.us/u/kco3aZ6WQn>.

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 September 12, 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, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov.

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

37.34.113 CERTIFICATION OF PERSONS ASSISTING IN THE ADMINISTRATION OF MEDICATION: ADOPTION OF THE HEALTH AND MEDICATION ADMINISTRATION MANUAL (1) For the purpose of certification of persons who supervise or assist in the administration of medication to persons through the state-sponsored developmental disabilities services, the department has developed and published an instructional and reference aid entitled Health and Medication Administration Manual for ~~Individuals~~ Persons with Intellectual/Developmental Disabilities: A Self-Paced Study Guide and Reference Manual, published and effective ~~October 1, 2009~~ October 1, 2024. The department adopts and incorporates by reference this manual. Copies may be obtained from the Department of Public Health and Human Services, Developmental Disabilities Program, P.O. Box 4210, Helena, MT 59604.

AUTH: 53-20-204, MCA

IMP: 53-20-204, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.34.113 pertaining to the Health and Medication Administration Manual.

The department proposes amending ARM 37.34.113 to adopt and incorporate an updated Health and Medication Administration Manual. The current manual was adopted in 2009. The updates and additions to the information are required to provide current information on medications and medication assistance protocols. Additionally, the manual's format and writing style have been updated for clarity. Direct support professionals (DSPs) are required to hold current certification to assist people enrolled in the DDP 0208 comprehensive waiver with the administration of medications. The manual delivers information to prepare DSPs for the medication certification examination and serves as a reference guide during fieldwork.

ARM 37.34.113 The manual would incorporate the changes specified below.

1. Easier format for reading.
2. Illustrations on key points that will help with recall and finding the topic readily.
3. Old chapters in the 2009 manual have been replaced with new ones:
 - Chapter 8 replaces chapter 4.
 - Chapters 9 and 10 replace chapter 6.
 - Chapter 11 replaces chapter 7.
 - Chapter 12 replaces chapter 8.
 - Chapter 13 replaces chapter 9.
 - Chapter 15 replaces chapter 10.
 - Chapter 16 replaces chapter 11.
4. New chapters have been added in:
 - Chapter 4 Forms of Medication
 - Chapter 6 Documentation
 - Chapter 14 Dehydration
 - Chapter 17 Sleep Apnea
 - Chapter 19 Skin Problems
 - Chapter 21 Falls
 - Chapter 22 Diets
5. Added appendices 1 through 22 that expand upon the information found in each chapter.
6. Study questions are now in the appendices rather than at the end of each chapter.
7. The new manual has been divided into four sections.
 - Section 1

- Section 2
- Section 3A
- Section 3B

Fiscal Impact

There are no anticipated fiscal impacts to this rule amendment.

5. 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., October 4, 2024.

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

7. 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 5 above.

8. 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 rules.mt.gov.

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

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

11. 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 August 27, 2024.