

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

In the matter of the amendment of ) AMENDED NOTICE OF PUBLIC  
ARM 37.27.902, 37.87.102, ) HEARING ON PROPOSED  
37.87.702, and 37.88.101 pertaining ) AMENDMENT  
to licensed marriage and family )  
therapists and policy changes for )  
medication assisted treatment )

TO: All Concerned Persons

1. On January 15, 2021, the Department of Public Health and Human Services published MAR Notice No. 37-940 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 52 of the 2021 Montana Administrative Register, Issue Number 1.

2. On February 4, 2021, the Department of Public Health and Human Services held a public hearing via remote conferencing to consider the proposed amendment of the above-stated rules. The department will extend the comment period and hold an additional public hearing regarding the proposed amendment of the above-stated rules.

3. On March 4, 2021, at 10:00 a.m., the Department of Public Health and Human Services will hold an additional public hearing via remote conferencing to consider the amended notice of the proposed amendment of the above-stated rules. Because there currently exists a state of emergency in Montana due to the public health crisis caused by the coronavirus, there will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/95194407581>; meeting ID: 951 9440 7581; or

(b) Dial by telephone +1 646 558 8656; meeting ID: 951 9440 7581. Find your local number: <https://mt-gov.zoom.us/u/ag16mDyXL>.

4. 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 February 26, 2021, to advise us of the nature of the accommodation that you need. Please contact Heidi Clark, 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 [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov).

5. The department now proposes to include the amendment of ARM 37.87.702 as part of this notice to permit the licensed marriage and family therapist service to be provided at a mental health center by an in-training professional to youth with serious emotional disturbance. This proposed rule amendment will expand the availability of mental health providers across Montana to address the state's shortage of such providers. The original proposal notice did not include this additional rule, which was an oversight on the part of the department.

The department is amending this proposal notice to include policy changes for medication assisted treatment (MAT) because on December 30, 2020, the Centers for Medicare and Medicaid issued guidance about expanded Medicaid coverage for treatment of opioid use disorders. The guidance relates to a new mandatory Medicaid benefit added under the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act). Changes required under the SUPPORT Act are effective immediately. In order to make the program changes required by the SUPPORT Act, the department needs to change the AMDD Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health, which is adopted and incorporated in rules that were already open under this rule notice. The most expeditious way to effectuate the required changes is to amend the existing rulemaking notice and hold another hearing to allow for additional opportunity to comment.

6. The original proposal notice is being amended to include the following rule as proposed to be amended, new matter underlined, deleted matter interlined:

37.87.702 MENTAL HEALTH CENTER SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE (SED), DEFINITIONS For purposes of this subchapter, the following definitions apply:

(1) and (2) remain the same.

(3) "In-training mental health professional services" are services provided under the supervision of a licensed mental health professional by an individual who has completed all academic requirements for licensure as a psychologist, clinical social worker, ~~or licensed professional counselor~~, or licensed marriage and family therapist and is in the process of completing the supervised experience requirement for licensure, in accordance with ARM Title 24, chapters 189 and 219.

(4) through (11) remain the same.

AUTH: 53-2-201, 53-6-101, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, MCA

7. The original proposal notice's amendments to ARM 37.27.902 and 37.88.101 are being amended as follows, new matter underlined, deleted matter interlined:

37.27.902 SUBSTANCE USE DISORDER SERVICES: AUTHORIZATION REQUIREMENTS (1) remains the same.

(2) In addition to the requirements contained in rule, the department has developed and published the Addictive and Mental Disorders Division Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health, dated ~~October 1, 2020~~ April 1, 2021, which it adopts and incorporates by reference. The purpose of the manual is to implement requirements for utilization management and services. A copy of the manual may be obtained from the department by a request in writing to the Department of Public Health and Human Services, Addictive and Mental Disorders Division, 100 N. Park, Ste. 300, P.O. Box 202905, Helena, MT 59620-2905 or at <http://dphhs.mt.gov/amdd.aspx>.

(3) remains the same.

AUTH: 53-6-113, 53-24-204, 53-24-208, 53-24-209, MCA

IMP: 53-6-101, 53-24-204, 53-24-208, 53-24-209, MCA

37.88.101 MEDICAID MENTAL HEALTH SERVICES FOR ADULTS, AUTHORIZATION REQUIREMENTS (1) remains the same.

(2) In addition to the requirements contained in rule, the department has developed and published the Addictive and Mental Disorders Division Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health (Manual), dated ~~October 1, 2020~~ April 1, 2021, which it adopts and incorporates by reference. The purpose of the Manual is to implement requirements for utilization management and services. A copy of the Manual may be obtained from the department by a request in writing to the Department of Public Health and Human Services, Addictive and Mental Disorders Division, 100 N. Park, Ste. 300, P.O. Box 202905, Helena, MT 59620-2905 or at <http://dphhs.mt.gov/amdd.aspx>.

(3) through (5) remain the same.

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

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

8. The proposed amendment to ARM 37.87.102 from the original proposal notice remains the same.

9. The statement of reasonable necessity from the original proposal notice is being amended to include the following:

MAT Policy Change

The department is proposing to make changes to the Medication Assisted Treatment (MAT) policy #550 in the AMDD Medicaid Services Provider Manual for SUD and Adult Mental Health, which is incorporated in ARM 37.27.902 and ARM 37.88.101. This is necessary because the Centers for Medicare and Medicaid (CMS) is requiring the department move the MAT benefit from the Physician's Services State Plan to a separate MAT Medicaid State Plan Amendment and align the program with the requirements in the federal Substance Use Disorder Prevention that Promotes Opioid Recovery for Patients and Communities Act (SUPPORT Act). In addition, the department is proposing changes to clarify the allowable billing practices for this

service. This is necessary because current providers across the state have applied different criteria for additional lab testing outside the bundled rate. To ensure clinical best practices are consistently applied the department proposes limitations for lab testing outside of the bundled rate.

The department is proposing the following changes to the Medication Assisted Treatment, Policy #550:

1. Clarify that the MAT Intake bundled rate may only be billed for a member once per year for the same provider. If the member chooses to use a different provider, the new provider may also bill the MAT Intake bundled rate. If a member discharges from services and returns to service with the same provider, the provider may not rebill the MAT Intake bundled rate.
2. Clarify that the face-to-face assessment required for MAT Intake requires an in-person assessment by a physician or mid-level practitioner.
3. The Support ACT requires counseling services and behavioral therapies. As such, a mental health assessment is required and if the assessment indicates the need for counseling services and behavioral therapies, the member must be referred to the indicated services.
4. The addition of limits for lab testing. Limit the number of definitive drug testing to eight times per year. The frequency of testing should be determined by patient-specific factors, the most important of which is progress in treatment.
5. Change language to include all qualified MAT providers. Federal guidance directs who may provide MAT services.

10. 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: Heidi Clark, 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 March 12, 2021. Comments may also be faxed to (406) 444-9744 or e-mailed to [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov).

/s/ Brenda K. Elias  
Brenda K. Elias  
Rule Reviewer

/s/ Erica Johnston  
Erica Johnston, Acting Director  
Public Health and Human Services

Certified to the Secretary of State February 2, 2021.