

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 37.85.105 pertaining to) PROPOSED AMENDMENT
updating Medicaid provider rates, fee)
schedules, and effective dates)

TO: All Concerned Persons

1. On October 28, 2021, at 3:00 p.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/86004196571>, meeting ID: 860 0419 6571, or

(b) Dial by telephone +1 646 558 8656, meeting ID: 860 0419 6571. Find your local number: <https://mt-gov.zoom.us/u/kchnvBjfc9>.

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 October 14, 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, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.85.105 EFFECTIVE DATES, CONVERSION FACTORS, POLICY
ADJUSTERS, AND COST-TO-CHARGE RATIOS OF MONTANA MEDICAID
PROVIDER FEE SCHEDULES (1) and (2) remain the same.

(3) The department adopts and incorporates by reference, the fee schedule for the following programs within the Health Resources Division, on the date stated.

(a) The inpatient hospital services fee schedule and inpatient hospital base fee schedule rates including:

(i) the APR-DRG fee schedule for inpatient hospitals as provided in ARM 37.86.2907, effective ~~October 1, 2020~~ October 1, 2021; and

(ii) the Montana Medicaid APR-DRG relative weight values, average national length of stay (ALOS), outlier thresholds, and APR grouper version ~~37 38~~ are contained in the APR-DRG Table of Weights and Thresholds effective ~~October 1, 2020~~ October 1, 2021. The department adopts and incorporates by reference the

APR-DRG Table of Weights and Thresholds effective ~~October 1, 2020~~ October 1, 2021.

(b) The outpatient hospital services fee schedules including:

(i) remains the same

(ii) the conversion factor for outpatient services on or after ~~January 1, 2019~~ October 1, 2021 is ~~\$56.64~~ \$55.89;

(iii) through (j) remain the same.

(k) Montana Medicaid adopts and incorporates by reference the Region D Supplier Manual, effective ~~July 1, 2021~~ October 1, 2021, which outlines the Medicare coverage criteria for Medicare covered durable medical equipment, local coverage determinations (LCDs), and national coverage determinations (NCDs) as provided in ARM 37.86.1802, effective ~~July 1, 2021~~ October 1, 2021. The prosthetic devices, durable medical equipment, and medical supplies fee schedule, as provided in ARM 37.86.1807, is effective ~~July 1, 2021~~ October 1, 2021.

(l) through (6) remain the same

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

IMP: 53-2-201, 53-6-101, 53-6-125, 53-6-402, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.85.105 pertaining to updating Medicaid provider rates, fee schedules, and effective dates.

The following explanation represents the reasonable necessity for the proposed amendments. The department administers the Montana Medicaid and non-Medicaid program to provide health care to Montana's qualified low income, elderly, and disabled residents. Medicaid is a public assistance program paid for with state and federal funds appropriated to pay health care providers for the covered medical services they deliver to Medicaid members.

The proposed amendments are explained below, with reference to the specific subsections of ARM 37.85.105.

ARM 37.85.105 Effective Dates, Conversion Factors, Policy Adjusters, And Cost-To-Charge Ratios of Montana Medicaid Provider Fee Schedules

ARM 37.85.105(3)(a) Inpatient Hospital Services Rates

The House Bill (HB) 2 Narrative for the 2023 biennium provides for a reduced appropriation from the 2021 biennium for Medicaid services provided by non-critical access hospitals in an amount equivalent to a 1.0% provider rate reduction. (<https://leg.mt.gov/content/Publications/fiscal/Session-2021/HB-2-Narrative/B-Senate-Floor.pdf>, page 2). With a proposed effective date of October 1, 2021, the department must target a 1.33% reduction to hospital reimbursement as the SFY 2022 reduction is applied over 9 months instead of 12, thereby reducing the number

of months over which the 1.0% annual decrease is implemented. Hospital rates are modified in October to align with the effective dates of the 3M APR-DRG grouper. The changes proposed below to APR-DRG are projected to provide for an overall inpatient hospital reimbursement reduction of 1.0% during SFY 2022.

The department proposes to adopt Version 38 of the 3M APR-DRG grouper effective October 1, 2021. This grouper update includes changes to DRG relative weights, average length of stays, and adds or deletes some DRGs. The department proposes to increase the adult age adjustor to 1.00, increase the mental health age adjustor to 1.65, increase the neonate policy adjustor to 1.50, and add a new obstetric policy adjustor of 1.30. These adjustments are necessary to offset changes to relative DRG weights. In addition, the department proposes to decrease base rates. The department proposes the following base rates:

General Hospitals: \$5,365
Centers of Excellence: \$7,995
Long Term Acute Care Hospitals: \$7,250

ARM 37.85.105(3)(b) Outpatient Hospital Services Fee Schedules

The department proposes to decrease the conversion factor utilized when pricing services under the Outpatient Prospective Payment System reimbursement methodology. The conversion factor is proposed to be \$55.89. With a proposed effective date of October 1, 2021, the department must target a 1.33% reduction to hospital reimbursement as the SFY 2022 reduction is applied over 9 months instead of 12. This decrease is necessary to meet the intent of the legislature provided in the HB 2 Narrative document. This document reduced the appropriation for Medicaid services provided by non-critical access hospitals in an amount equivalent to a 1.0% provider rate reduction during SFY 2022.

Free Standing Birthing Centers are reimbursed under the Outpatient Hospital Service reimbursement methodology in accordance with ARM 37.86.3005. Therefore, while the HB 2 reduction does not specify Free Standing Birthing Centers, the reimbursement rates for this provider will be reduced the equivalent of 1.00% during SFY 2022.

ARM 37.85.105(3)(k)

The department proposes to update the fee schedule date for prosthetic devices, durable medical equipment, and medical supplies. This update is necessary to ensure the department can implement CMS quarterly updates for these services.

Fiscal Impact

The following table displays the anticipated financial impact during SFY 2022, and the number of providers affected by the proposed amendments.

Provider Type	SFY 2022 Budget Impact (Federal Funds)	SFY 2022 Budget Impact (State Funds)	SFY 2022 Budget Impact (Total Funds)	Active Provider Count
Durable Medical Equipment	\$0	\$0	\$0	501
Free Standing Birthing Centers	(\$253)	(\$100)	(\$353)	2
Hospitals – Inpatient	(\$747,587)	(\$714,186)	(\$1,461,773)	431
Hospitals – Outpatient	(\$912,807)	(\$238,121)	(\$1,150,928)	431

The department intends for the proposed amendments to be effective retroactive to October 1, 2021.

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: Heidi Clark, 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 dphhslegal@mt.gov, and must be received no later than 5:00 p.m., November 5, 2021.

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 or may be made by completing a request form at any rules hearing held by the department.

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

9. 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.

10. 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/ Adam Meier
Adam Meier, Director
Public Health and Human Services

Certified to the Secretary of State September 28, 2021.