

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 37.87.903, 37.87.1801,) PROPOSED AMENDMENT
37.87.1802, 37.87.1803,)
37.106.1955, 37.106.1956,)
37.106.1960, 37.106.1961, and)
37.106.1965 pertaining to)
comprehensive school and)
community treatment)

TO: All Concerned Persons

1. On December 1, 2021, at 10:00 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 rules. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/87296632243>; meeting ID: 872 9663 2243; or

(b) Dial by telephone +1 646 558 8656; meeting ID: 872 9663 2243. Find your local number: <https://mt-gov.zoom.us/u/kuNSGU51N>.

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 no later than 5:00 p.m. on November 17, 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 rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.87.903 MEDICAID MENTAL HEALTH SERVICES FOR YOUTH, AUTHORIZATION REQUIREMENTS (1) remains the same.

~~(2) Medicaid mental health services for youth requiring approval prior to treatment, prior authorization, or continued stay authorization is reimbursed only if the youth has been determined to have a serious emotional disturbance defined in the Manual adopted and incorporated by reference below, which has been verified by the department or its utilization review contractor.~~

(2) The department will reimburse providers of Medicaid mental health youth services if they meet the prior authorization or continued stay review requirements specified in the Children's Mental Health Medicaid Services Provider Manual, referenced in (7).

(3) through (6) remain the same.

(7) In addition to the requirements contained in rule, the department has developed and published a provider manual entitled Children's Mental Health Bureau, Medicaid Services Provider Manual (manual), dated ~~January 1, 2021~~ October 1, 2021, for the purpose of implementing requirements for utilization management. The department adopts and incorporates by reference the Children's Mental Health Bureau, Medicaid Services Provider Manual, dated ~~January 1, 2021~~ October 1, 2021. 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, Developmental Services Division, Children's Mental Health Bureau, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210 or at <http://dphhs.mt.gov/dsd/CMB/Manuals.aspx>.

(8) and (9) remain the same.

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

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

37.87.1801 COMPREHENSIVE SCHOOL AND COMMUNITY TREATMENT PROGRAM: REFERRALS (1) remains the same.

(2) Youth referred to the CSCT program must be served in sequential order as determined by the priorities below based upon acuity and need, regardless of payer:

(a) and (b) remain the same.

(c) the youth is currently receiving CSCT services and is transitioning to a new school or provider;

(c) through (e) remain the same but are renumbered (d) through (f).

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

IMP: 50-5-103, 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.87.1802 COMPREHENSIVE SCHOOL AND COMMUNITY TREATMENT PROGRAM: CONTRACT REQUIREMENTS (1) remains the same.

(2) ~~The licensed mental health center must identify each school in which CSCT services will be provided, including:~~

~~(a) specific services to be provided;~~

~~(b) staffing by position and minimum qualifications; and~~

(c) provide a description of the mental health services provided by the licensed mental health center during and outside of normal classroom hours.

(3) remains the same.

(4) The school and licensed mental health center must specify a referral process to the CSCT program.

(5) The school and licensed mental health center must specify an enrollment process that:

(a) through (6) remain the same.

(7) The school and licensed mental health center must describe annual training offered to school personnel, parents, and students concerning the following:

(a) through (c) remain the same.

(d) information confidentiality and security requirements under the Family Education Rights and Privacy Act (FERPA), and Privacy and Security Rules issued under the Health Insurance Portability and Accountability Act (HIPAA HIPAA) Privacy and Security, and the Health Information Technology for Economic and Clinical Health Act (HITECH) Act.

(8) The contract must identify program data and information which will be shared between the school district and the licensed mental health center to evaluate program effectiveness to include ARM 37.106.1956~~(9)~~ (10).

(9) ~~The contract must include record keeping and management, billing procedures, and must state which party is~~ identify the responsible party for each requirement specified in this rule.

(10) remains the same.

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

IMP: 50-5-103, 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.87.1803 COMPREHENSIVE SCHOOL AND COMMUNITY TREATMENT PROGRAM: REIMBURSEMENT (1) Comprehensive school and community treatment (CSCT) services delivered by a licensed mental health center with an endorsement under ARM 37.106.1955 must be billed under the school district's provider number. ~~Mental health services that are provided concurrently with CSCT are billed under the mental health center's provider number. Outpatient therapy codes may not be billed to Medicaid by CSCT staff concurrent with Medicaid for CSCT. CSCT staff may not bill Medicaid for other mental health center services or outpatient therapy. CSCT staff may only bill Medicaid for CSCT services.~~

(2) remains the same.

~~(3) One team with two full-time employees will not be reimbursed for more than 720 billing units per team per month. Services must be billed in the month the service is provided. The licensed or in-training mental health professional must provide at least 40 percent of the units billed by the team each month. Billing units are calculated based on the sum total of minutes each professional spent with the youth per day.~~

(3) One team with up to three employees will not be reimbursed for more than 360 service days per team per month.

(a) A service day is a minimum of 30 total minutes of core services provided by the CSCT team.

(i) Core services include intake and/or annual assessment, individual therapy, family therapy, group psychotherapy or psychoeducation, behavioral interventions, crisis response during typical working hours, and care coordination.

(ii) Care coordination may only be considered a core service and be billable if two other core services are provided within that week (with a week being the period from Monday to Sunday). Care coordination includes phone calls, treatment team meetings, individualized education program (IEP) meetings, referrals, and school advocacy for youth. Care coordination does not include documentation time.

(4) ~~Up to 20 CSCT units ten service days per youth, per state fiscal year, may be billed for a an intervention, assessment, and if necessary, referral to other services. There is no limit on the number of youth that may be served. These units~~

must be billed as part of the 720 unit monthly team total. These service days must be billed as part of the 360 service days monthly team total.

(5) For a youth to qualify for more than ~~20 units~~ ten service days of CSCT, a full clinical assessment is required, and the youth must meet the SED criteria in ~~ARM 37.87.903(8)~~ identified in the Children's Mental Health Bureau Medicaid Services Provider Manual as referenced in ARM 37.87.903(7).

(6) remains the same.

(7) The school district or the contracted provider must bill for youth not eligible for Medicaid; ~~the~~ The school district may use a sliding-fee schedule.

(8) The school district must meet the ~~certification of match~~ requirements through the intergovernmental transfer (IGT) process.

~~(9) The school district must provide to the department a copy of the certification of match documentation as required by the department, annually.~~

~~(10) Failure to provide documentation to the department in accordance with reporting requirements in (9) may result in:~~

~~(a) suspension of CSCT services or termination of the CSCT program for the following school year; or~~

~~(b) cost recovery.~~

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

IMP: 50-5-103, 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.106.1955 MENTAL HEALTH CENTER: COMPREHENSIVE SCHOOL AND COMMUNITY TREATMENT PROGRAM (CSCT) ENDORSEMENT REQUIREMENTS

(1) In addition to the requirements established in this subchapter, a licensed mental health center providing a comprehensive school and community treatment program (CSCT) must have a CSCT program endorsement issued by the department. To receive a CSCT program endorsement, the licensed mental health center must establish to the department's satisfaction that it meets the requirements stated in ~~these program rules~~ ARM 37.106.1955, 37.106.1956, 37.106.1960, 37.106.1961, and 37.106.1965.

(2) remains the same.

(3) The licensed mental health center must have a written contract with the school district in accordance with ARM 37.87.1802.

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

IMP: 50-5-103, 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.106.1956 MENTAL HEALTH CENTER: COMPREHENSIVE SCHOOL AND COMMUNITY TREATMENT PROGRAM (CSCT), SERVICES AND STAFFING

(1) For any youth receiving CSCT services, ~~The~~ the CSCT program must be able to provide the following services, ~~as clinically indicated,~~ to each youth as ~~outlined~~ specified in the that youth's individualized treatment plan (ITP):

(a) individual, group, and family therapy;

(b) remains the same.

(c) other evidence and research-based practices effective in the treatment of youth with a serious emotional disturbance (SED);

(d) through (h) remain the same.

(i) continuous treatment that must be available twelve months of the year.

The program must provide a minimum of ~~46 hours~~ four service days per month of CSCT services in summer months. For any youth who does not receive CSCT services in the summer, providers must document in the youth's medical record the reason why the youth did not receive such services, as well as a summary of attempts to engage the youth and family.

(2) CSCT services for youth with ~~serious emotional disturbance (SED)~~ must be provided according to an ~~individualized treatment plan~~ ITP designed by a licensed or in-training mental health professional who is a staff member of a CSCT program team.

(3) and (4) remain the same.

(5) The CSCT program must employ sufficient qualified staff to deliver all CSCT services to the youth as outlined in the ITP for the youth and in accordance with the contract between the school and the licensed mental health center.

(6) The CSCT team may be assigned to provide services in two schools if the CSCT team responds to crisis situations for youth enrolled in CSCT in each school building during typical school hours.

~~(6) (7)~~ (7) The CSCT program must employ or contract with a program supervisor who has daily overall responsibility for the CSCT program and who is knowledgeable about the mental health service and support needs of the youth. The program supervisor may provide direct CSCT services, but this position may not fill the functions of the staff positions described in ~~(6) (8)~~ and ~~(7) (9)~~ for more than ~~three~~ six months.

~~(7) (8)~~ (8) Each CSCT team must include a ~~full-time equivalent~~ mental health professional, who may be a licensed or in-training mental health professional, as defined in ARM 37.87.702(3). In-training mental health professionals must be:

(a) remains the same.

~~(b) licensed by the last day of the calendar year following the state fiscal year (July 1 through June 30) in which supervised hours were completed.~~

(b) supervised according to ARM 24.219.422.

~~(8) (9)~~ (9) Each CSCT team ~~must include a full-time equivalent~~ may include up to two behavioral aides. A behavioral aide must work under the clinical oversight of a licensed mental health professional and provide services for which they have received training that do not duplicate the services of the licensed or in-training mental health professional. All behavioral aides initially employed after July 1, 2013 must have a high school diploma or a GED and at least two years:

(a) through (c) remain the same.

~~(9) (10)~~ (10) The licensed mental health center CSCT program supervisor and an appropriate school district representative must meet regularly, at least ~~every 90 days~~ four times per calendar year, during the time period CSCT services are provided to mutually assess program effectiveness utilizing the following indicators:

(a) through (f) remain the same.

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

IMP: 50-5-103, 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.106.1960 MENTAL HEALTH CENTER: COMPREHENSIVE SCHOOL AND COMMUNITY TREATMENT (CSCT) PROGRAM, PERSONNEL TRAINING

(1) remains the same.

(2) All CSCT program staff are required to receive a minimum of 18 hours of orientation training during the first three months of employment which addresses all of the following:

(a) through (d) remain the same.

(e) roles of and responsibilities of CSCT staff in the school setting;

(f) through (i) remain the same.

(3) All CSCT program staff are required to receive a minimum of 18 hours training per year in behavior management strategies that focus on the prevention of behavior problems for topics that support staff competency in working with youth with serious emotional disturbance (SED) to decrease severity of presenting symptoms. Training must include:

(a) and (b) remain the same.

(c) evidence and research-based behavior therapeutic interventions and practices; and

(d) progress monitoring techniques to inform treatment decisions; and

(e) trauma-informed practices.

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

IMP: 50-5-103, 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.106.1961 MENTAL HEALTH CENTER: COMPREHENSIVE SCHOOL AND COMMUNITY TREATMENT (CSCT) PROGRAM, RECORD REQUIREMENTS

(1) In addition to any clinical records required in ARM 37.85.414 or elsewhere in these rules, the licensed mental health center's CSCT program must maintain the following records for youth with serious emotional disturbance (SED):

~~(a) a written referral cosigned by the parent(s), legal representative, or guardian, which documents the reason for the referral;~~

(b) (a) a signed verification indicating the parent(s), legal representative, or guardian has been informed by the licensed mental health center that Medicaid requires coordination between CSCT, home support services, and outpatient therapy;

(c) through (e) remain the same but are renumbered (b) through (d).

~~(f) (e)~~ 90-day treatment plan reviews; and

~~(g) (f)~~ discharge plan; and

(g) the Comprehensive School and Community Treatment Data Collection Template, that must be completed each March and September for each youth enrolled in CSCT and submitted to the Children's Mental Health Bureau by the licensed mental health center. The department adopts and incorporates by reference the Comprehensive School and Community Treatment Data Collection Template (form), dated November 1, 2021. A copy of this form may be obtained from the department by a request in writing to the Department of Public Health and Human Services, Developmental Services Division, Children's Mental Health Bureau, 111 N. Sanders, P.O. Box 4210, Helena, MT, 59604-4210 or at found at <https://dphhs.mt.gov/dsd/CMB/>.

(2) In addition to any clinical records required in ARM 37.85.414 or elsewhere in these rules, records for youth referred to CSCT regardless of their diagnosis as described in ARM 37.87.1803(4) must include the following:

~~(a) a written referral, signed by the person referring the youth and by the parent(s), legal representative, or guardian, which documents the reason for the referral;~~

(b) and (c) remain the same but are renumbered (a) and (b).

(3) Records for youth referred to CSCT and denied acceptance into the program must include ~~the following:~~ documentation detailing the reason for the denial.

~~(a) a written referral, signed by the person referring the youth and by the parent(s), legal representative, or guardian, which documents the reason for the referral;~~

~~(b) documentation detailing the reason for the denial.~~

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

IMP: 50-5-103, 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.106.1965 MENTAL HEALTH CENTER: COMPREHENSIVE SCHOOL AND COMMUNITY TREATMENT (CSCT) PROGRAM, SPECIAL EDUCATION REQUIREMENTS (1) The licensed mental health center's CSCT program must be coordinated with the ~~special individualized~~ education program (IEP) of the youth, if the youth is identified as a child with a disability and is receiving special education services under the ~~individuals Individuals with disabilities education act~~ Disabilities Education Act (IDEA).

(2) The licensed or in-training mental health professional or behavioral aide, as appropriate, must attend the ~~individualized education plan (IEP)~~ meeting when requested by the parent(s)/legal representative/guardian or the school.

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

IMP: 50-5-103, 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.87.903, 37.87.1801, 37.87.1802, 37.87.1803, 37.106.1955, 37.106.1956, 37.106.1960, 37.106.1961, and 37.106.1965.

The following summaries explain programmatic changes and the reasonable necessity for the proposed rule amendments.

Comprehensive School and Community Treatment for Youth with Serious Emotional Disturbances

The department's Children's Mental Health Bureau (CMHB) regularly conducts systematic review of its rules and services to reduce rule duplication, enhance the quality of services provided to youth and families while ensuring the program is

fiscally sound, give licensed mental health centers greater operational flexibilities, standardize assessment tools, implement outcome measurement reporting, and increase clarity in administrative rule.

CMHB worked in collaboration with the Behavioral Health Alliance of Montana (BHAM) and the Comprehensive School and Community Treatment (CSCT) program provider coalition to review the CSCT program for youth with serious emotional disturbance (SED). Based upon this joint review, CMHB proposes to amend the following rules: ARM 37.87.903, 37.87.1801, 37.87.1802, 37.87.1803, 37.106.1956, 37.106.1960, 37.106.1961, and 37.106.1965. The department proposes to amend the Children's Mental Health Bureau Medicaid Services Provider Manual (manual), adopted and incorporated by reference in ARM 37.87.903. The manual can be found at: <https://dphhs.mt.gov/dsd/CMB/Manuals>. The proposed manual amendments will aid implementation of, and align with, the redesigned CSCT program. These proposed changes, including amendments to the manual, will be retroactively dated to October 1, 2021. The proposals to the redesigned program contain the following components:

- a) Medical necessity criteria. The department proposes to use a new evidence-based standardized assessment tool for the CSCT program to determine eligibility for youth to receive services. This provision is found in the manual and completion of the assessment requirement will be effective April 1, 2022.
- b) Referral requirements. The department proposes to adjust the referral requirements to eliminate signed referral documents. It also proposes to adjust the referral requirement criteria for acuity and need to include youth currently receiving CSCT services.
- c) Outcome and program measurements. The department proposes to increase the use of new and existing measurements to inform decision-making and aid in external reporting of CMHB services. These measurements will serve as a tool for continuous program evaluation and improvement.
- d) Reimbursement limits. The department proposes to adjust reimbursement limits of one CSCT team of three members to no more than 360 service days each month.
- e) Service requirements. The department proposes eliminating the requirement for the CSCT clinician to provide 40% of the billable service.
- f) Core service requirements. The department proposes to implement core service requirements for providers to qualify for the daily rate. A youth must receive service from a CSCT provider for a minimum of 30 minutes. Core services include intake and/or annual assessment, individual therapy, family therapy, group psychotherapy or psychoeducation, behavioral interventions, crisis response during typical working hours, and care coordination. Care coordination may only be considered a core service and be billable if two other core services are provided within that week (Monday to Sunday). Care coordination includes phone calls, treatment team meetings, individualized education program (IEP) meetings, referrals, and school advocacy for youth. Care coordination does not include documentation time.

- g) CSCT team structure. The department proposes to increase flexibility in CSCT team structure. One team of up to three staff may provide services at two schools. The CSCT team must consist of one clinician and up to two behavioral aides.
- h) School collaboration. The department proposes to adjust the expectation that mental health center leadership meets with school administration from every 90 days to four times annually. This will increase scheduling flexibility.
- i) Continuous treatment. CSCT services are expected to be available to youth twelve months of the year. The department proposes to change the documentation requirement to include the reasons a youth who is enrolled in CSCT does not receive services during the summer and to include a summary of the licensed mental health center's attempts to engage the youth and family.
- j) Personnel training. The department proposes to adjust training requirements to include trauma-informed practices and topics supportive of staff increasing competency in working with youth with SED.

Home Support Services

The department proposes that CSCT program and Home Support Services (HSS) will be considered duplicative and reimbursement for concurrent CSCT and HSS will not be allowed without prior authorization. This prohibition will begin July 1, 2022. HSS will be provided in the home or community at minimum of 75% of the time.

These changes are found in the manual, dated October 1, 2021, adopted and incorporated by reference in ARM 37.87.903.

Rule Clean Up

The department proposes to eliminate references to repealed rules, update references to definitions, make grammar and punctuation edits, clarify roles and responsibilities, and use clarifying language that accurately reflects current practices. The following rule amendments enact these changes: ARM 37.87.903, 37.87.1802, 37.87.1803, 37.106.1955, 37.106.1956, 37.106.1960, 37.106.1961, and 37.106.1965.

Fiscal Impact

These proposed rule amendments have estimated costs listed in the table below for the changes related to the Comprehensive School and Community Treatment program. The required state share will be provided by local education agencies through intergovernmental transfer agreements.

The department proposes that the referenced rule amendments are to be retroactively effective to October 1, 2021. The department proposes that the changes related to the requirement to submit outcome measurements in ARM 37.106.1961 will be applied March 1, 2022.

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 dphslegal@mt.gov, and must be received no later than 5:00 p.m., December 3, 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, apply and have been fulfilled. The primary bill sponsor was notified by email and mail on October 20, 2021.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules 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/ Aleea Sharp
Aleea Sharp
Rule Reviewer

/s/ Adam Meier
Adam Meier, Director
Public Health and Human Services

Certified to the Secretary of State October 26, 2021.