



Children, Families, Health, and Human Services Interim Committee

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62nd Montana Legislature

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TO: Committee Members
FROM: Alexis Sandru, Staff Attorney
RE: DPHHS Administrative Rule Activity -- Issues 15-18 -- September Report
DATE: September 25, 2012

The Department of Public Health and Human Services (Department) has filed the following notices with the Secretary of State's Office for publication in the Montana Administrative Register (MAR). *Notices are published twice a month and are available in their entirety at <http://www.mtrules.org> (search by notice number).*

I. Adoption Notices

1. Notice No. 37-589, Issue 15 (August 9, 2012): The Department has filed a Notice of Amendment to ARM 37.86.3607. The amendment, which pertains to the reimbursement for case management services for persons with developmental disabilities, was adopted as proposed and no public comment or testimony was received. The amendment will apply retroactively to August 1, 2012.
2. Notice No. 37-588, Issue 16 (August 23, 2012): The Department has filed a Notice of Amendment to ARM 37.57.102, 37.57.105, 37.57.106, 37.57.109, 37.57.110, 37.57.111, 37.57.117, and 37.57.118, involving children's special health services. The rules were amended as proposed, except for ARM 37.57.118, which was further amended to accurately reflect the Secretary of State's current record retention policy.
3. Notice No. 37-575, Issue 16 (August 23, 2012): The Department has filed a Notice of Adoption and Amendment of rules pertaining to Medicaid diabetes and cardiovascular disease prevention services. The Department adopted New Rules I through IV (now ARM 37.86.5401, 37.86.5402, 37.86.5403, and 37.86.5404, respectively) and amended ARM 37.85.206 as proposed. The new rules and amended rule apply retroactively to February 2, 2012.
4. Notice No. 37-590, Issue 16 (August 23, 2012): The Department has filed a Notice of Amendment of ARM 37.40.307 and 37.40.361, which involve nursing facility reimbursement, amending the rules as proposed. After receiving public comment, the Department decided not to adopt the proposed decreased rates for approximately 22 nursing facility providers. The rates will apply retroactively to July 1, 2012.
5. Notice No. 37-591, Issue 17 (September 6, 2012): The Department has filed a Notice of Amendment of ARM 37.80.101 and 37.80.306, involving the child care policy manual. The

Department has adopted ARM 37.80.101 as proposed and ARM 37.80.306 with changes that clarify the Department's intent that any person with a DUI conviction within the prior 3 years be prevented from transporting children in the care of a legally certified provider.

II. Proposal Notices

1. Notice No. 37-594, Issue 15 (August 9, 2012): The Department has filed a Notice of Public Hearing on Proposed Adoption of New Rules I through XI, which pertain to licensing specialty hospitals. The proposed new rules establish the general requirements for the licensure of specialty hospitals, including requirements for application, submission of an impact study, implementation of charity policies, licensure grant or denial, transfer of care agreements, and joint venture relationships. A public hearing was held on August 29, 2012.
2. Notice No. 37-597, Issue 15 (August 9, 2012): The Department has filed a Notice of Public Hearing on Proposed Amendment to ARM 37.87.903, pertaining to Medicaid authorization for mental health services for youths. The Department is proposing to change prior authorization requirements for some of the children's mental health services provided through Medicaid funding and to adopt a new utilization review manual. A public hearing was held on August 29, 2012. The Department intends for the proposed amendment to go into effect on October 1, 2012.
3. Notice No. 37-592, Issue 16 (August 23, 2012): The Department has filed an Amended Notice of Public Hearing on Proposed Amendment to ARM 37.87.2202, 37.87.2205, and 37.87.2225, which pertain to non-Medicaid respite care services. The Department is proposing to make additional changes to ARM 37.87.2205 and 37.87.2225, including adding moderate level therapeutic foster care as an eligibility requirement under ARM 37.87.2205 and removing child-placing agencies from the list of provider types that can bill non-Medicaid respite concurrently with therapeutic family care under ARM 37.87.2225. The Department extended the public comment deadline to August 30, 2012.
4. Notice No. 37-593, Issue 17 (September 6, 2012): The Department has filed an Amended Notice of Public Hearing on Proposed Adoption of New Rules I through XXXIII, which involve the Medicaid home and community services children's autism program. The Department is proposing to amend New Rule IV by removing the private health insurance limitation from the criteria for service opportunities under the children's autism program. The Department extended the public comment deadline to September 13, 2012.
5. Notice No. 37-595, Issue 17 (September 6, 2012): The Department has filed an Amended Notice of Public Hearing on Proposed Adoption of New Rules I through III, which pertain to the home and community-based services state plan program. The Department is proposing to recalculate the rate of reimbursement for high fidelity wraparound facilitation services to a 15-minute unit of service and to clarify that the 15-minute unit of service is for direct contact with youth/family. Paperwork, travel, supervision, and other overhead is included in the rate and is

not billable as a separate 15-minute unit of service. The proposed changes are being made to Appendix A and pages 9-11 of the 1915(i) HCBS State Plan Program for Youth with Serious Emotional Disturbance Policy Manual. The Department extended the public comment deadline to September 13, 2012.

6. Notice No. 37-596, Issue 17 (September 6, 2012): The Department has filed an Amended Notice of Public Hearing on Proposed Amendment and Repeal of rules contained in Title 37, chapter 87, subchapter 13, ARM, pertaining to home and community-based services or youth with serious emotional disturbance. The Department is proposing to recalculate the rate of reimbursement for high fidelity wraparound facilitation services to a 15-minute unit of service and to clarify that the 15-minute unit of service is for direct contact with youth/family. Paperwork, travel, supervision, and other overhead is included in the rate and is not billable as a separate 15-minute unit of service. The proposed changes are being made in Appendix A and pages 8-10 of the Home and Community-Based Services Bridge Waiver for Youth with Serious Emotional Disturbance Policy Manual. The Department extended the public comment deadline to September 13, 2012.

7. Notice No. 37-598, Issue 17 (September 6, 2012): The Department has filed a Notice of Public Hearing on Proposed Adoption of New Rules I through IV, which pertain to alternatives to out-of-state placement for at-risk youths. The proposed new rules contain a purpose statement, definition section, and provisions regarding provider requirements, participation, and procedures for proposing an in-state plan for at-risk youth. A public hearing is scheduled for September 26, 2012, at 10 a.m. in Room 207 of the DPHHS building.

8. Notice No. 37-599, Issue 17 (September 6, 2012): The Department has filed a Notice of Public Hearing on Proposed Adoption, Amendment, and Repeal of rules pertaining to positive behavior support for persons receiving developmental disabilities services. The Department is proposing to adopt New Rules I through IV, which require the use of less aversive, restrictive, and intrusive services for persons exhibiting challenging behaviors. The Department is also proposing to amend and repeal rules contained in Title 37, chapter 34, subchapter 14, ARM, to reflect the move from aversive procedures to positive behavior support procedures. A public hearing is scheduled for September 26, 2012, at 1:30 p.m. in Room 207 of the DPHHS building.

9. Notice No. 37-600, Issue 17 (September 6, 2012): The Department has filed a Notice of Public Hearing on Proposed Amendment to ARM 37.86.2401 and 37.86.2501, which pertain to specialized nonemergency medical transportation. Based upon federal law requirements, the proposed amendments seek to exempt tribal government and related Indian Health Service nonemergency motor carriers from the requirement that nonemergency motor carriers obtain a class B license from the Montana Public Service Commission before enrolling as Medicaid providers. A public hearing is scheduled for September 28, 2012, at 1:30 p.m. in the auditorium of the DPHHS building.

10. Notice No. 37-601, Issue 18 (September 20, 2012): The Department has filed a Notice of

Public Hearing on Proposed Adoption of New Rule I, pertaining to mandatory cross reporting to law enforcement of crimes against children. The new rule requires the Child and Family Services Division to report allegations of certain serious crimes against children to law enforcement. A public hearing is scheduled for October 10, 2012, at 1:30 p.m. in Room 207 of the DPHHS building.

11. Notice No. 37-602, Issue 18 (September 20, 2012): The Department has filed a Notice of Public Hearing on Proposed Adoption of New Rules I through IV, which pertain to documentation for admission to the Montana State Hospital (MSH). The new rules propose documentation requirements for voluntary and involuntary, civil, and forensic admissions to MSH in order to ensure that MSH will have required information during the admission process to meet the needs of each admitted patient upon arrival. A public hearing is scheduled for October 11, 2012, at 1:30 p.m. in the auditorium of the DPHHS building.