



Children, Families, Health, and Human Services Interim Committee

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61st Montana Legislature

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TO: Committee members
FROM: Lisa Mecklenberg Jackson, Staff Attorney
RE: DPHHS Administrative Rule Activity
DATE: August 13, 2010

The Department of Public Health and Human Services has filed the following rule notices with the Secretary of State's Office for publication in the Montana Administrative Register (MAR):
(Notices in their entirety are available online at: <http://www.dphhs.mt.gov/legalresources/>)

Notices of Proposed Rules:

I.

MAR 2010 Issue No. 13 (July 15, 2010), MAR 37-514, NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT -- the department has filed a NOTICE OF PUBLIC HEARING regarding the proposed amendment of one rule pertaining to Temporary Assistance for Needy Families (TANF). A hearing will be held August 5, 2010 in the DPHHS Auditorium, 111 N. Sanders, Helena, Montana. The comment period runs until August 13, 2010. ARM 37.78.102 currently adopts and incorporates by reference the TANF policy manual effective January 1, 2010. The department proposes to make revisions to the manual regarding the TANF Working Caretaker Relative Program. TANF regulation 901-2 is being updated to reflect changes to the copayment and service population for the TANF Working Caretaker Relative Program. Effective August 1, 2010 the mandatory copayment will increase from \$10 per family to \$150 per family and service will only be provided to children ages 11 and under. The TANF Working Caretaker Relative Program was implemented pursuant to HB 2 (effective August 1, 2007) and HB 676 (effective July 1, 2009). Funding for the program was established at \$485,072 for state fiscal year 2011. The department states that current expenditures show the funding will not be sufficient to provide services at the existing level so in order to stay within the budgeted amount as required per restrictions in HB 2, the changes are necessary. The department intends to apply the rule change retroactively to August 1, 2010.

TECHNICAL NOTE: The proposed rules were reviewed by committee legal staff and no technical problems were noted.

II.

MAR 2010 Issue No. 13 (July 15, 2010), MAR 37-515, NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT -- the department has filed a NOTICE OF PUBLIC HEARING regarding the proposed amendment of one rule pertaining to child care assistance. A hearing will be held August 5, 2010 in the DPHHS Auditorium, 111 N. Sanders, Helena, Montana. The comment period runs until August 13, 2010. The companion rule to MAR Notice No. 37-514

above, ARM 37.80.101 currently adopts and incorporates by reference the child care policy manual effective September 1, 2007. The department proposes to make revisions to the manual regarding the TANF Working Caretaker Relative Program which will be undergoing changes on August 1, 2010. Child Care Section 3-3 is being updated to reflect changes to the copayment and service population for the TANF Working Caretaker Relative Program. Effective August 1, 2010 the mandatory copayment will increase from \$10 per family to \$150 per family and service will only be provided to children ages 11 and under. The department states that current expenditures show the funding will not be sufficient to provide services at the existing level so in order to stay within the budgeted amount as required per restrictions in HB 2, the changes are necessary. The department intends to apply the rule change retroactively to August 1, 2010.

TECHNICAL NOTE: The proposed rules were reviewed by committee legal staff and no technical problems were noted.

III.

MAR 2010 Issue No. 15 (August 12, 2010), MAR 37-516, NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT -- the department has filed a NOTICE OF PUBLIC HEARING regarding the proposed amendment of 11 rules pertaining to the Healthy Montana Kids Plan. A hearing will be held September 1, 2010 in the DPHHS Auditorium, 111 N. Sanders, Helena, Montana. The comment period runs until September 9, 2010. The department is proposing to amend ARM 37.5.117, 37.5.331, and 37.79.801 to remove any ambiguity in rules regarding the appeal procedures applicable to the HMK program. In October 2006 the program, then known as CHIP, changed from a contracted insurance plan to a program that pays on a fee-for-service basis and uses a contracted third party administrator. To implement this change the rules for grievances and appeal procedures were amended to be consistent with other contested case proceedings at the department level. Language was inadvertently left in these three rules regarding an appeal process used at an earlier time so the necessary amendment is being pursued now. These rules are also being amended to implement the Patient Protection and Affordable Care Act (PPACA) option to cover eligible children of Montana state employees and Montana University System employees. A section of the PPACA amended the Social Security Act and allows the HMK program to provide eligibility for children who are employees of public entities if their annual aggregate amount of premiums and cost-sharing would exceed 5% of the family's income. Many state and university employees are not able to cover the cost of health care for their children so implementation of this option will increase children's access to health care services. The department is also proposing to amend ARM 37.79.201(1)(h) to implement a "hardship exception" to the three month insurance delay period for eligible families who have an aggregate amount of health insurance premiums and cost-sharing expenses imposed for coverage of a family of a child which exceed 5% of the family's income. Currently, many Montana families are hesitant to have their children be uninsured for three months so this rule change would help with this. The department further proposes to add licensed ambulance services as an HMK- covered benefit in ARM 37.79.301 and deletes ambulance services as a benefit not covered in ARM 39.79.303 as utilization of ambulance services in HMK claims history reveal the need for this benefit for children of low income families. The department is also proposing to delete language in ARM 37.79.302 that limits the lifetime maximum payment to \$1 million for

HMK coverage groups members to be in compliance with the PPACA and to amend ARM 37.79.326 to increase the maximum basic dental payment from \$350 to \$1,000 per member per benefit year. The proposed change will affect all HMK members who utilize dental benefits and will allow access to needed dental services. The estimated fiscal impact of these rule changes will be \$1.9 million in federal funds and \$500,00 in state funds during FY 2011 and \$4 million in federal funds and \$1 million in state funds during FY 2012. The department intends the rule amendments to be applied effective October 1, 2010.

TECHNICAL NOTE: The proposed rules were reviewed by committee legal staff and no technical problems were noted.

OF NOTE: The State Administration and Veterans Affairs Interim Committee (SAVA) has requested a committee bill (LC 148) to revise certain provisions related to state agency notification for the primary sponsor of a bill when the agency adopts initial administrative rules implementing legislation. The proposal would shift the responsibility of maintaining the contact list of former and current legislators from the Secretary of State's Office to the Legislative Services Division. It would also clarify that if an agency proposing an administrative rule is able to contact a sponsor by one of three methods (phone, email, or mail), it would not need to utilize the other two methods (the current statute seems to indicate all three contact methods are necessary). SAVA will review an initial draft of the bill in September and assign a sponsor.

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