



Children, Families, Health, and Human Services Interim Committee

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66th Montana Legislature

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June 11, 2019

TO: Children, Families, Health, and Human Services Interim Committee
FROM: Alexis Sandru, Staff Attorney
RE: Administrative Rule Report for June 2019 Meeting

This report summarizes rules proposed by the Department of Public Health and Human Services (DPHHS) that are currently pending and rules adopted by DPHHS after the Legislature adjourned on April 25, 2019. Rule notices are available at www.mtrules.org (search by notice number (i.e. 37-847)).

PROPOSAL NOTICES

MAR Notice Number: 37-847

Subject: Adoption, amendment, and repeal of rules pertaining to wholesale foods and food standards

Summary: The Department is proposing to repeal existing rules pertaining to wholesale food establishments and to adopt new rules that:

- adopt and incorporate by reference the Food and Consumer Safety Circular 2-2019 for wholesale food establishments;
- describe the process for licensure as a wholesale food establishment;
- provide for an inspection at least once every 12 months;
- set minimum performance requirements for local health authorities to qualify for reimbursement from the local board inspection fund account under 50-57-305, MCA; and
- provide requirements for issuance of a Certificate of Free Sale by the Department.

The Department is also proposing to update 2001 state food standards to the most recent federal standards.

The Department anticipates no fiscal impact associated with the proposed rulemaking and intends for the rulemaking to be effective January 1, 2020.

Notes/Hearing: A public hearing is scheduled for June 13, 2019, at 1 p.m. in the auditorium of the DPHHS building located at 111 North Sanders, Helena, Montana. Public comment is due by 5 p.m. on June 21, 2019.

MAR Notice Number: 37-878

Subject: Medicaid rates, services, and benefits changes

Summary: The Department is proposing:

- to update the Addictive and Mental Disorders Division Medicaid Services Manual for Substance Use Disorder (SUD) and Adult Mental Health to include: (1) peer support

services, which would be a new benefit for Medicaid members, (2) a new bundled rate reimbursement option for providers delivering intensive outpatient services, and (3) additional provider types to conduct SUD assessments and referrals;

- to replace the Chemical Dependency Provider Manual with the AMDD Non-Medicaid Services Provider Manual for SUD;
- to increase most Medicaid and non-Medicaid provider rates, effective July 1, 2019; and
- to update relative value units for the resource-based relative value scale, conversion factors, and fee schedules.

For a detailed description of the fiscal impact associated with this rulemaking, see the rule notice.

Notes/Hearing: A public hearing is scheduled for June 13, 2019, at 10:30 a.m. in the auditorium of the DPHHS building located at 111 North Sanders, Helena, Montana. Public comment is due by 5 p.m. on June 21, 2019.

MAR Notice Number: 37-882

Subject: Nursing facility reimbursement rates

Summary: The Department is proposing to update the average daily rate for nursing facilities to \$204.30 for state fiscal year (SFY) 2020, which is an increase from \$202.45 in SFY 2019. The Department anticipates that the total cost for the increase is approximately \$1.85 million of combined state funds, federal funds, and patient contributions. The Department intends for the rulemaking to go into effect July 1, 2019.

Notes/Hearing: A public hearing is scheduled for June 13, 2019, at 11:30 a.m. in the auditorium of the DPHHS building located at 111 North Sanders, Helena, Montana. Public comment is due by 5 p.m. on June 21, 2019.

MAR Notice Number: 37-883

Subject: Update federal poverty index guidelines for the Montana Telecommunications Access Program (MTAP)

Summary: The Department is proposing to revise the maximum level of allowable income in order to be eligible for MTAP by replacing 2018 federal poverty guidelines with 2019 guidelines.

The Department anticipates no fiscal impact and intends to apply the rulemaking retroactively to February 1, 2019.

Notes/Hearing: No public hearing was scheduled. Public comment was due on June 7, 2019.

MAR Notice Number: 37-886

Subject: Migrating billing to Medicaid Management Information System (MMIS)

Summary: The Department is proposing to adopt an updated version of the Montana Developmental Disabilities Program Services Manual, which pertains to reimbursement for home and community-based services for individuals with developmental disabilities, effective July 1, 2019. The manual updates include:

- increasing provider rates for certain services and changing some daily rates that were based on an hourly reimbursement to a daily tier-based reimbursement;
- migrating to MMIS for billing (which allows for billing on a more frequent basis than currently allowed), payments, and maintaining client demographic information; and
- changing the format of the manual to be compliant with the Americans with Disabilities Act.

The Department anticipates that the proposed amendments will cost approximately \$3,041,996 in federal funds and \$1,246,679 in state general fund.

Notes/Hearing: A public hearing is scheduled for June 28, 2019, at 11 a.m. in the auditorium of the DPHHS building located at 111 North Sanders, Helena, Montana. Public comment is due by 5 p.m. on July 5, 2019.

ADOPTION NOTICES

MAR Notice Number: 37-879

Subject: Low Income Weatherization Assistance Program (LIWAP) amendments

Summary: The Department proposed to:

- update the Weatherization Assistance Program Policy and Procedure Manual, effective July 1, 2019;
- incorporate standard work specifications to ensure the most current weatherization standards are utilized; and
- clarify the process used for prioritizing eligible households in accordance with the state's computerized energy audit system.

The Department intended for the rulemaking to go into effect July 1, 2019.

Notes/Hearing: A public hearing was held on April 19, 2019, and public comment was due on April 26, 2019.

Adoption Notice Notes: The Department received no public comment and amended the rules as proposed. The amendments are effective July 1, 2019.

MAR Notice Number: 37-881

Subject: Healthy Montana Kids (HMK) dental benefits amendment

Summary: The Department proposed to amend dental procedure codes, as needed, in order to align with the State of Montana employee dental benefit, which is the benchmark for the HMK dental benefit approved by the Centers for Medicare and Medicaid Services (CMS). The Department anticipated no fiscal impact.

Notes/Hearing: A public hearing was held on April 19, 2019. Public comment was due on April 26, 2019.

Adoption Notice Notes: The Department received no public comment and amended the rule as proposed. The amendment is effective July 1, 2019.

MAR Notice Number: 37-884

Subject: Medical Marijuana Program emergency rules

Summary: Effective April 19, 2019, the Department adopted 3 emergency rules pertaining to the Medical Marijuana Program. The new rules:

- apply existing contested case hearing procedures to the Medical Marijuana Program;
- place certain restrictions on providers involved in contested case proceedings; and
- provide procedures for contesting card application denials or revocations.

Notes/Hearing: Pursuant to 2-4-303, MCA, the rules may be effective for no longer than 120 days.