

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES  
OF THE STATE OF MONTANA

In the matter of the amendment of            ) NOTICE OF AMENDMENT  
ARM 37.34.3005 pertaining to                )  
Developmental Disabilities Program        )  
Reimbursement for Services

TO: All Concerned Persons

1. On July 21, 2023, the Department of Public Health and Human Services published MAR Notice No. 37-1036 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 698 of the 2023 Montana Administrative Register, Issue Number 14.

2. The department has amended the following rule as proposed: ARM 37.34.3005.

3. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

Comment 1: Multiple comments were received questioning why the department is proposing to bundle transportation costs into certain services, such as residential and day service rates, rather than reimburse using a stand-alone rate.

Response 1: The Guidehouse provider rate study and final report recommended the Department bundle transportation costs into most residential and day service rates. The Department considered the Guidehouse recommendations, which were made after extensive study of rates and provider costs as well as receiving input from providers and stakeholders, and agreed with the report's final recommendations regarding bundling transportation costs.

Comment 2: A commenter noted that proposed language favors face-to-face encounters for certain services and expressed concern that the department views telehealth encounters as substandard.

Response 2: The Department is committed to expanding access to services through telehealth. The rule states that face-to-face encounters are preferred but telehealth encounters are permitted with documentation of why a service was provided as telehealth. The comprehensive benefit package includes services that are intended to be delivered in person due to the nature of the service.

Comment 3: The Department received a comment about how the Guidehouse rate study was interpreted for Applied Behavior Analysis (ABA) rates. The commenter

requested the Department doublecheck the numbers for ABA services and noted there is no proposal to increase ABA rates for inflation.

Response 3: The Department would like to clarify that the Behavioral Support Services in the Developmental Disabilities 0208 Waiver were part of the Guidehouse rate study. However, the ABA rates were not part of that study and are outside the scope of this rulemaking. A similar question was submitted for MAR 37-1037 and the commenter is encouraged to view the Department's response there.

4. The Department intends to apply these proposed rule amendments retroactively to July 1, 2023.

/s/ Brenda K. Elias  
Brenda K. Elias  
Rule Reviewer

/s/ Charles T. Brereton  
Charles T. Brereton, Director  
Department of Public Health and Human  
Services

Certified to the Secretary of State August 29, 2023