

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
37.34.1101 and the repeal of) PROPOSED AMENDMENT AND
37.34.1102, 37.34.1103, 37.34.1105,) REPEAL
37.34.1107, 37.34.1108, 37.34.1114,)
37.34.1117, and 37.34.1119
pertaining to Developmental
Disabilities Program Plan of Care

TO: All Concerned Persons

1. On January 12, 2024, at 11:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment and repeal 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/81531300744?pwd=WS85Sjg4eWxpYWwhLcTU1Wxo4WUtOQT09>, meeting ID: 815 3130 0744, and password: 179274; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 815 3130 0744, and password: 179274. Find your local number: <https://mt-gov.zoom.us/j/81531300744?pwd=WS85Sjg4eWxpYWwhLcTU1Wxo4WUtOQT09>.

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 of Public Health and Human Services no later than 5:00 p.m. on December 29, 2023, to advise us of the nature of the accommodation that you need. Please contact Bailey Yuhas, 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 hhsadminrules@mt.gov.

3. The rule as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

37.34.1101 PLAN OF CARE: PERSONAL SUPPORT PLAN: PURPOSE (1)
A personal support plan (PSP) is a person-driven and person-centered plan that identifies the supports and services ~~that are necessary~~ for a person receiving state-administered developmental disabilities services to achieve independence, dignity, and personal fulfillment which meet health and safety needs, and achieve quality of life. ~~The PSP is a person-driven and person-centered plan that assesses an eligible person's needs and identifies services that are appropriate to meet the person's assessed needs.~~

(a) The Developmental Disabilities Program Personal Support Manual, dated July 1st, 2023, sets forth requirements and criteria that govern the development of

the Personal Support Plan for the developmental disabilities program of the department.

(b) The department adopts and incorporates by reference the Developmental Disabilities Program Personal Support Plan Manual, dated July 1st, 2023.

(c) A copy of the manual may be obtained through the department of Public Health and Human Services, Developmental Disabilities Program, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210.

AUTH: 53-2-201, 53-20-204, MCA
IMP: 53-20-203, MCA

4. The department proposes to repeal the following rules:

37.34.1102 PLAN OF CARE: PERSONAL SUPPORT PLAN: IMPLEMENTATION

AUTH: 53-2-201, 53-20-204, MCA
IMP: 53-20-203, MCA

37.34.1103 PLAN OF CARE: PERSONAL SUPPORT PLAN: COMPONENTS

AUTH: 53-2-201, 53-20-204, MCA
IMP: 53-20-203, MCA

37.34.1105 PLAN OF CARE: PERSONAL SUPPORT PLAN: ASSESSMENTS

AUTH: 53-2-201, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-402, 53-20-203, 53-20-205, MCA

37.34.1107 PLAN OF CARE: PERSONAL SUPPORT PLAN: PLAN TEAM

AUTH: 53-2-201, 53-20-204, MCA
IMP: 53-20-203, MCA

37.34.1108 PLAN OF CARE: PERSONAL SUPPORT PLAN: QUARTERLY REPORTS

AUTH: 53-2-201, 53-20-204, MCA
IMP: 53-20-203, MCA

37.34.1114 PLAN OF CARE: PERSONAL SUPPORT PLAN: DECISION MAKING

AUTH: 53-2-201, 53-20-204, MCA
IMP: 53-20-203, MCA

37.34.1117 PLAN OF CARE: INDIVIDUAL FAMILY SERVICE PLAN: PURPOSE

AUTH: 53-2-201, 53-6-402, 53-20-204, MCA

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IMP: 53-2-201, 53-6-402, 53-20-203, 53-20-205, MCA

37.34.1119 PLAN OF CARE: INDIVIDUAL FAMILY SERVICE PLAN:
IMPLEMENTATION

AUTH: 53-2-201, 53-6-402, 53-20-204, MCA

IMP: 53-2-201, 53-6-402, 53-20-203, 53-20-205, MCA

5. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.34.1101 and to repeal 37.34.1102, 37.34.1103, 37.34.1105, 37.34.1107, 37.34.1108, 37.34.1114, 37.34.1115, 37.34.1117, and 37.34.1119 pertaining to Personal Support Plans.

The following summary explains the reasonable necessity for the proposed rule amendment.

The department proposes to amend ARM 37.34.1101 to adopt and incorporate into rule the revised Personal Supports Plan (PSP) Manual. The PSP Manual was revised to eliminate unnecessary and duplicative procedures as required by MCA 53-20-215. The changes to the PSP Manual include updated language pertaining to PSP timeframes, Targeted Case Management, Action Plans & Protocols, Behavioral supports and safety mods, and the removal of language pertaining to vision statement.

The department proposes to repeal 37.34.1102, 37.34.1103, 37.34.1105, 37.34.1107, 37.34.1108, 37.34.1114, 37.34.1115, 37.34.1117, and 37.34.1119. It is necessary to repeal these rules because they no longer provide accurate information or direction in creating Personal Support Plans. The PSP Manual, as proposed to be adopted and incorporated by reference in ARM 37.34.1101, will provide an accurate and updated source for providers and department staff to access the information required to provide successful Personal Support Plans.

The department's authorizing statute is MCA 53-20-203 which states that the department shall carry out the review of administrative rules, policies, and procedures provided for in 53-20-215 and take the steps necessary to eliminate or change a rule, policy, or procedure found by the review to be unnecessary, duplicative, or in need of revision, including applying for any amendments to Medicaid waivers.

Fiscal Impact

The proposed rule amendment has no anticipated fiscal impact implications.

6. The department intends to apply these proposed rule amendments retroactively to July 1, 2023

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7. 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: Bailey Yuhas, 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 hhsadminrules@mt.gov, and must be received no later than 5:00 p.m., January 19, 2024.

8. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

9. 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 7 above.

10. An electronic copy of this notice is available on the department's web site at <https://dphhs.mt.gov/LegalResources/administrativerules>, or through the Secretary of State's web site at <http://sos.mt.gov/ARM/register>.

11. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

12. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and repeal of the above-referenced rules will not significantly and directly impact small businesses.

13. 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/ Paula M. Stannard
Paula M. Stannard
Rule Reviewer

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

Certified to the Secretary of State December 12, 2023.