

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

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rules I through IV pertaining to SUD) PROPOSED ADOPTION
voucher programs)

TO: All Concerned Persons

1. On March 18, 2024, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed adoption 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/89518873783?pwd=cVIHdjFUZUJUd1NpUzhTN3JVZEpJZz09>, meeting ID: 895 1887 3783, and password: 198397; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 895 1887 3783, and password: 198397. Find your local number: <https://mt-gov.zoom.us/u/kbJT3TH7b2>.

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 March 4, 2024, 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 rules as proposed to be adopted provide as follows, new matter underlined, deleted matter interlined:

NEW RULE I: SUBSTANCE USE DISORDER VOUCHER PROGRAM,
PURPOSE (1) The purpose of the rules in this subchapter is to establish standards for the Substance Use Disorder Voucher Program, as provided in Title 53, chapter 24, part 2, MCA.

(2) This program is intended to cover the cost of substance use disorder treatment room and board that is not otherwise covered by insurance or another assistance program.

(3) This program is subject to available funding.

AUTH: 53-24-204, MCA
IMP: 53-24-218, MCA

NEW RULE II: SUBSTANCE USE DISORDER VOUCHER PROGRAM,
DEFINITIONS

MAR Notice No. 37-1040

In addition to the terms defined in 53-24-103 , MCA, the following definitions shall apply in the interpretation and enforcement of the rules in this subchapter:

(1) "American Society of Addiction Medicine (ASAM) Criteria" means guidelines for placement, continued stay, and transfer, or discharge of individuals with addiction and co-occurring conditions developed by the American Society of Addiction Medicine.

(2) "ASAM 3.1" means substance use disorder Clinically Managed Low-Intensity Residential treatment services for adults or adolescents, which is a level of care described in the ASAM Criteria. ASAM 3.1 is a licensed community-based residential facility that functions as a supportive, structured living environment. Individuals are provided stability and skills building to help prevent or minimize continued substance use. This level of care includes a minimum of 5 hours per week of professionally directed treatment services.

(3) "BHDD Medicaid Manual" means the Behavioral Health and Developmental Disabilities (BHDD) Division Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health adopted and incorporated by reference in ARM 37.27.902. The manual can be found at: <https://dphhs.mt.gov/BHDD/BHDDMedicaidServicesProviderManual>.

(4) "Substance use disorder" means chemical dependency, as defined in 53-24-103, MCA.

AUTH: 53-24-204, MCA

IMP: 53-24-218, MCA

NEW RULE III: SUBSTANCE USE DISORDER VOUCHER PROGRAM, REQUIREMENTS (1) In order to participate in the substance use disorder voucher program, an individual must:

- (a) live in Montana;
- (b) be 14 years of age or older;
- (c) have an annual family income at or below 200% of federal poverty guidelines;
- (d) meet medical necessity described in the BHDD Medicaid Manual for ASAM 3.1 services;
- (e) received a prior authorization for ASAM 3.1 services from the Quality Improvement Organization (QIO); and
- (f) currently receive ASAM 3.1 services.

AUTH: 53-24-204, MCA

IMP: 53-24-218, MCA

NEW RULE IV: SUBSTANCE USE DISORDER VOUCHER PROGRAM, REIMBURSEMENT (1) In order to be reimbursed for room and board under the Substance Use Disorder Voucher Program in NEW RULE I, a program must be a state approved substance use disorder facility under ARM 37.27.106, and licensed as an ASAM 3.1 substance use disorder facility pursuant to ARM Title 37, Chapter 106, subchapter 14.

(2) A provider that meet requirements in NEW RULE III and seeks reimbursement for room and board under the Substance Use Disorder Voucher Program must complete and submit the designated request form to the department to obtain reimbursement for such services provided to a qualified individual.

(3) The department will review the request and provide approval or denial to the provider within 10 working days of receipt of the request.

(4) If the request is approved, the department will issue payment to the provider.

(5) The department will reimburse providers as outlined in contract.

AUTH: 53-24-204, MCA

IMP: 53-24-218, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services proposes to add New Rules I through IV to the Chemical Dependency Program rules, which are found in Title. 37, Chapter 27, of the Administrative Rules of Montana, which implements the requirements for state approval of treatment facilities, as provided in 53-24-208, MCA. The adoption of these new rules will allow a substance use disorder (SUD) voucher program to reimburse SUD treatment room and board not otherwise covered by insurance or another assistance program.

The Department will utilize its contracts with ASAM 3.1 treatment facilities to establish the reimbursement process outlined in NEW RULE IV.

The following explains each proposed NEW RULE and the reasonable necessity:

NEW RULE I – This proposed rule describes the purpose and statutory authority for the SUD housing voucher program.

NEW RULE II – This proposed rule would provide the definitions applicable to the SUD housing voucher program. The proposed definitions would provide clarity regarding terms used in the rules and avoid unnecessary repetition.

NEW RULE III – This proposed rule would describe the requirements for participation in the SUD housing voucher program. The program participation requirements would ensure that public funds are appropriately used for the intended purpose of the SUD housing voucher program, which is to assist lower-income Montanans in paying for room and board as they receive treatment for substance use disorder.

NEW RULE IV – This proposed rule describes the proposed process for reimbursement under the SUD housing voucher program. The provider reimbursement requirements would ensure that public funds are appropriately used for the intended purpose of the SUD housing voucher program.

Fiscal Impact

This proposed rule amendment has a cost of \$300,000.00 in state fiscal year (SFY) 2024 and \$300,000.00 in SFY 2025 from the HEART fund.

Reimbursement will be at \$35.00 per day with a \$1000.00 per individual limit per SFY. This reimbursement was included in the accepted fiscal note for HB 311 in the 2023 legislative session.

5. The department intends for these proposed rule amendments to be effective retroactively to July 1, 2023.

6. 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., March 22, 2024.

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

8. 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 6 above.

9. 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>.

10. The bill sponsor contact requirements of 2-4-302, MCA, the primary bill sponsor was notified via email and phone on August 18, 2023.

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

12. 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/ 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 February 13, 2024.