



Children, Families, Health, and Human Services Interim Committee

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68th Montana Legislature

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May 1, 2024

TO: Children, Families, Health, and Human Services Interim Committee
FROM: Maddie Krezowski, Staff Attorney
RE: Administrative Rule Report – May 10, 2024 MAR Publication

This report covers proposed administrative rules from the Department of Public Health and Human Services (DPHHS) that will be published through May 10, 2024. Current rule notices are available at <https://rules.mt.gov/> (search by notice number in the bottom right-hand search box, i.e., 37-1028).

Rules proposed since the committee's last meeting are highlighted in **yellow**.

CURRENT PROPOSAL NOTICES

MAR Notice Number 37-1004

Subject: Foster Care Licensing

Date Notice Sent to Committee: January 30, 2024

Proposal Notice Publication Date: February 9, 2024

Public Hearing Date: March 1, 2024

Public Comment Due Date: March 8, 2024

Possible Adoption and Effective Dates: The agency can adopt the rule after March 10, 2024.

Notice of adoption for the rule must be published before August 9, 2024.

Link to text: The proposal notice is available [here](#).

Brief description: Updates foster care licensing rules to ensure they are current to national standards; clearly defined; and eliminate or mitigate barriers for the department and providers, while maintaining adequate safety standards for children in care.

Notes for the committee: The committee renewed its informal objection to the rule under § 2-4-305(9), MCA, on March 12, 2024.

MAR Notice Number: 37:1034

Subject: Mental Health Medicaid Funded 1115 and 1915 Waivers

Date Filed with SOS: April 30, 2024

Date Notice Sent to Committee: May 1, 2024

Proposal Notice Publication Date: May 10, 2024

Public Hearing Date: June 3, 2024

Public Comment Due Date: June 7, 2024

Possible Adoption and Effective Dates: The agency can adopt the rule after June 9, 2024. Notice of adoption for the rule must be published before November 10, 2024.

Link to text: The proposal notice will be available online on May 10, 2024.

Brief description: Aligns the ARM with the amendment approved by CMS to the state's base 1915(c) waiver to make selected COVID-19 Public Health Emergency (PHE) flexibilities permanent. These changes (1) add self-direct service option to Behavioral Intervention Assistant and Life Coach; (2) add conflict-free case management criteria to the base waiver; and (3) update the Severe and Disabling Mental Illness (SDMI) waiver's case management team requirements.

MAR Notice Number: 37-1043

Subject: Clinical Mental Health Licensure Candidate Medicaid Service Reimbursement

Date Notice Sent to Committee: February 14, 2024

Proposal Notice Publication Date: February 23, 2024

Public Hearing Date: March 15, 2024

Public Comment Due Date: March 22, 2024

Possible Adoption and Effective Dates: The agency can adopt the rule after March 24, 2024. Notice of adoption for the rule must be published before August 23, 2024.

Link: The proposal notice is available [here](#). The proposed changes to the BHDD Manuals are available [here](#).

Brief Description: Expands the ability to bill the Montana Medicaid Program for in-training mental health professional services provided to Medicaid beneficiaries. Adopts and incorporates the updated Behavioral Health and Developmental Disabilities (BHDD) Division Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health dated January 1, 2024, and the BHDD Division Non-Medicaid Services Provider Manual for Substance Use Disorder dated January 1, 2024.

MAR Notice Number: 37-1050

Subject: Private Alternative Adolescent Residential Programs

Date Filed with SOS: April 30, 2024

Date Notice Sent to Committee: May 1, 2024

Proposal Notice Publication Date: May 10, 2024

Public Hearing Date: June 4, 2024

Public Comment Due Date: June 7, 2024

Possible Adoption and Effective Dates: The agency can adopt the rule after June 9, 2024. Notice of adoption for the rule must be published before November 10, 2024.

Link to text: The proposal notice will be available online on May 10, 2024.

Brief description: Implements new requirements from House Bill 218 for Private Alternative Adolescent Residential Programs.

MAR Notice Number: 37-1057

Subject: 12-month postpartum continuous eligibility for Medicaid and HMK

Date Filed with SOS: April 30, 2024

Date Notice Sent to Committee: May 1, 2024

Proposal Notice Publication Date: May 10, 2024

Public Hearing Date: May 30, 2024

Public Comment Due Date: June 7, 2024

Possible Adoption and Effective Dates: The agency can adopt the rule after June 9, 2024. Notice of adoption for the rule must be published before November 10, 2024.

Link to text: The proposal notice will be available online on May 10, 2024.

Brief description: Increases continuous eligibility for Medicaid coverage from 60 days to 12 months for postpartum women who are enrolled in Montana’s Medicaid and HMK/CHIP programs during pregnancy. Aligns ARM with CMS-approved state plan amendments.

MAR Notice Number: 37-1058

Subject: IV-E foster care services

Date Notice Sent to Committee: April 16, 2024

Proposal Notice Publication Date: April 26, 2024

Public Hearing Date: None scheduled

Public Comment Due Date: May 24, 2024

Possible Adoption and Effective Dates: The agency can adopt the rule after May 26, 2024.

Notice of adoption of the rule must be published before October 26, 2024.

Link to text: The proposal notice is available [here](#).

Brief description: Deletes two outdated rules in the ARM to align state regulations with federal guidelines, current Title IV-E eligibility determination practices, and Montana’s Title IV-E State Plan. ARM 37.49.601 states that applications should be filed with the Office of Public Assistance (OPA), but these applications have been handled in the Child the Family Services Division (CFSD) since 2004. ARM 37.49.602 states that redeterminations are conducted every six months, but this is no longer required.

MAR Notice Number: 37-1066

Subject: Communicable disease control

Date Filed with SOS: April 30, 2024

Date Notice Sent to Committee: May 1, 2024

Proposal Notice Publication Date: May 10, 2024

Public Hearing Date: May 30, 2024

Public Comment Due Date: June 7, 2024

Possible Adoption and Effective Dates: The agency can adopt the rule after June 9, 2024. Notice of adoption for the rule must be published before November 10, 2024.

Link to text: The proposal notice will be available online on May 10, 2024.

Brief description: Updates ARM related to disease control in line with national disease surveillance, investigation, and control recommendations. Adds definition for “institutional and congregate setting” to clarify types of settings in which an outbreak of communicable disease is reportable. Updates reportable conditions and timeline for reporting those conditions.

MAR Notice Number: 37-1069

Subject: Big Sky RX Program

Date Filed with SOS: April 30, 2024

Date Notice Sent to Committee: May 1, 2024

Proposal Notice Publication Date: May 10, 2024

Public Hearing Date: June 3, 2024

Public Comment Due Date: June 7, 2024

Possible Adoption and Effective Dates: The agency can adopt the rule after June 9, 2024. Notice of adoption for the rule must be published before November 10, 2024.

Link to text: The proposal notice will be available online on May 10, 2024.

Brief description: Increases the subsidy for eligible Montana resident's premium payment in a federally approved Medicare Prescription Drug Plan from a maximum of \$38.90 to \$42.20, the amount allowed under the federal Low-Income Subsidy (LIS) calculated for calendar year 2024.

MAR Notice Number: 37-1070

Subject: Hospice Reimbursement

Date Filed with SOS: April 30, 2024

Date Notice Sent to Committee: May 1, 2024

Proposal Notice Publication Date: May 10, 2024

Public Hearing Date: May 31, 2024

Public Comment Due Date: June 7, 2024

Possible Adoption and Effective Dates: The agency can adopt the rule after June 9, 2024. Notice of adoption for the rule must be published before November 10, 2024.

Link to text: The proposal notice will be available online on May 10, 2024.

Brief description: Updates the hospice reimbursement fee schedule to account for changes to the federal hospice reimbursement rates set by CMS in the federal rule published on August 2, 2023 at [88 FR 51164](#).

MAR Notice Number: 37-1071

Subject: Laboratory analyses and new born screening

Date Filed with SOS: April 30, 2024

Date Notice Sent to Committee: May 1, 2024

Proposal Notice Publication Date: May 10, 2024

Public Hearing Date: May 31, 2024

Public Comment Due Date: June 7, 2024

Possible Adoption and Effective Dates: The agency can adopt the rule after June 9, 2024. Notice of adoption for the rule must be published before November 10, 2024.

Link to text: The proposal notice will be available online on May 10, 2024.

Brief description: Adds X-linked Adrenoleukodystrophy (X-ALD) to the list of required newborn screening panel tests and adopts an incorporates by reference an updated Laboratory Test Fee List that takes into account the addition of the \$5.50 cost of the new test.

ADOPTION NOTICES SINCE LAST INTERIM COMMITTEE MEETING

MAR Notice Number: 37-1031

Subject: Children's Mental Health Services

Date Notice Sent to Committee: October 24, 2023, amended notice November 28, 2023

Proposal Notice Publication Date: November 3, 2023, amended notice December 8, 2023

Rescheduled Public Hearing Date: ~~November 22, 2023~~ December 28, 2023

Updated Public Comment Due Date: ~~December 1, 2023~~ January 5, 2024

Adoption Date: March 12, 2024

Link to text: The proposal notice is available [here](#). The link to the updated Children’s Mental Health Bureau Medicaid Services Provider Manual is available [here](#). The amended notice is available [here](#). The adoption notice is available [here](#).

Brief description: Adopts and incorporates changes to the Children’s Mental Health Bureau Medicaid Services Provider Manual. These changes make Mental Health Intensive Outpatient Therapy a permanent benefit, allow for the use of telehealth for certain youth mental health services, remove certain prior authorization requirements, amend continued stay review requirements for therapeutic group homes, clarify that an out-of-state therapeutic group home must be licensed in the state in which it operates, and remove an outdated minimum pay requirement for direct care workers.

MAR Notice Number: 37-1032

Subject: Home and Community Based Services (HCBS) Setting Regulations

Date Notice Sent to Committee: December 12, 2023

Proposal Notice Publication Date: December 22, 2023

Public Hearing Date: January 12, 2024

Public Comment Due Date: January 19, 2024

Adoption Date: March 12, 2024

Link to text: The proposal notice is available [here](#). The adoption notice is available [here](#).

Brief description: Brings ARM into compliance with federal requirements under 42 CFR 441.301 and 42 CFR 441.710 so HCBS providers can receive federal Medicaid reimbursements. These regulations ensure, among other things, that individuals receiving HCBS have access to the greater community, including opportunities to seek employment and work in competitive settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving HCBS.

MAR Notice Number: 37-1039

Subject: Chemical Dependency Programs – Medicaid Mental Health Services

Date Notice Sent to the Committee: October 10, 2023

Proposal Notice Publication Date: October 20, 2023

Public Hearing Date: November 13, 2023

Public Comment Due Date: November 17, 2023

Adoption Date: April 2, 2024

Link: The proposal notice is available [here](#). The updates to the Behavioral Health and Developmental Disabilities (BHDD) Division Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health and the BHDD Division Non-Medicaid Services Provider Manual for Substance Use Disorder are available [here](#). The adoption notice is available [here](#).

Brief description: Adopts and incorporates changes to the BHDD Medicaid and non-Medicaid manuals. These changes add policies for Mobile Crisis Response Services and Mobile Crisis Care Coordination to better align with the Crisis Now model.

MAR Notice Number: 37-1040

Subject: SUD voucher programs

Date Notice Sent to the Committee: February 14, 2024

Proposal Notice Publication Date: February 23, 2024

Public Hearing Date: March 18, 2024

Public Comment Due Date: March 22, 2024

Adoption Date: April 16, 2024

Link: The proposal notice is available [here](#). The adoption notice is available [here](#).

Brief description: Implements a substance use disorder (SUD) voucher program to reimburse SUD treatment room and board not otherwise covered by insurance or another assistance program as provided in section 53-24-218, MCA (enacted by HB 311 (2023)).

MAR Notice Number: 37-1041

Subject: Developmental Disabilities Program Plan of Care

Date Notice Sent to Committee: December 12, 2023

Proposal Notice Publication Date: December 22, 2023

Public Hearing Date: January 12, 2024

Public Comment Due Date: January 19, 2024

Adoption Date: March 12, 2024

Link: The proposal notice is available [here](#). The draft Personal Support Plan Manual is available [here](#). The adoption notice is available [here](#).

Brief Description: Adopts and incorporates the revised Personal Supports Plan (PSP) Manual. Revisions to the manual include update language pertaining to PSP timeframes, targeted case management, action plans and protocols, behavioral supports and safety mods, and the removal of language pertaining to vision statement. Repeals prior rules pertaining to creating PSPs.

MAR Notice Number: 37-1044

Subject: Licensure of Day Care Facilities

Date Notice Sent to Committee: October 10, 2023

Proposal Notice Publication Date: October 20, 2023

Public Hearing Date: November 13, 2023

Public Comment Due Date: November 17, 2023

Adoption Date: April 2, 2024

Link to text: The proposal notice is available [here](#). The adoption notice is available [here](#).

Brief description: Repeals the entirety of ARM Title 37, chapter 95, and creates an updated, restructured child care licensing and registration framework.

Notes for the committee: The committee requested an economic impact statement under § 2-4-11, MCA, on January 22, 2024. It is due to the committee on April 22, 2024. The committee formally objected to the rule on March 12, 2024. This objection prevents the rule from going into effect until the day after sine die of the next regular legislative session.

MAR Notice Number: 37-1047

Subject: Rural emergency hospitals

Date Notice Sent to Committee: February 14, 2023

Proposal Notice Publication Date: February 23, 2024

Public Hearing Date: March 19, 2024

Public Comment Due Date: March 22, 2024

Adoption Date: April 30, 2024

Link to text: The proposal notice is available [here](#). The adoption notice will be available online on May 10, 2024.

Brief description: Provides reference to [42 CFR Part 485 Subpart E](#) for compliance for licensure as a Rural Emergency Hospital.

MAR Notice Number: 37-1051

Subject: Foster care support service rules

Date Notice Sent to Committee: January 2, 2024

Proposal Notice Publication Date: January 12, 2024

Public Hearing Date: February 2, 2024

Public Comment Due Date: February 9, 2024

Adoption Date: April 2, 2024

Link to text: The proposal notice is available [here](#). The adoption notice is available [here](#).

Brief description: Addresses budget changes to Child and Family Services Division in HB 2, which increased rates for diaper and respite allowances and combined clothing and transportation allowances into the overall foster care rate.

MAR Notice Number: 37-1055

Subject: Autism Grant Program

Date Notice Sent to Committee: January 2, 2024

Proposal Notice Publication Date: January 12, 2024

Public Hearing Date: February 1, 2024

Public Comment Due Date: February 9, 2024

Adoption Date: April 2, 2024

Link to text: The proposal notice is available [here](#). The draft Autism Facilities Grant Manual is available [here](#). The adoption notice is available [here](#).

Brief description: Implements HB 952. Adopts and incorporates into rule an Autism Facilities Grant Program manual

MAR Notice Number: 37-1061

Subject: Updating Medicaid and non-Medicaid provider rates, fee schedules, and effective dates

Date Notice Sent to Committee: December 12, 2023

Proposal Notice Publication Date: December 22, 2023

Public Hearing Date: January 12, 2024

Public Comment Due Date: January 19, 2024

Adoption Date: March 12, 2024

Link to text: The proposal notice is available [here](#). The proposed provide rates are available [here](#). The adoption notice is available [here](#).

Brief Description: Implements provider rate increases for inpatient hospital services and prosthetic devices, durable medical equipment, and medical supplies.

MAR Notice Number: 37-1063

Subject: Congregate living reimbursement rates

Date Notice Sent to Committee: February 14, 2024

Proposal Notice Publication Date: February 23, 2024

Public Hearing Date: March 14, 2024

Public Comment Due Date: March 22, 2024

Adoption Date: April 16, 2024

Link to text: The proposal notice is available [here](#). The updated Montana Developmental Disabilities Program Services Manual version 2 is available [here](#). The adoption notice is available [here](#).

Brief Description: Creates new tenth tier for Congregate Living in the Montana Developmental Disabilities Program Services Manual to reflect the care required for individuals with the highest level of complex care needs to incentivize diversion of individuals from institutional settings to community settings. The new tier would have a daily rate of \$546.04. Adopts and incorporates updated Montana Developmental Disabilities Program Services Manual version 2, effective July 1, 2023.