



## Children, Families, Health, and Human Services Interim Committee

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### 64th Montana Legislature

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June 9, 2016

To: Children, Families, Health, and Human Services Interim Committee  
From: Julie Johnson, Staff Attorney  
Re: ARM Review -- Compilation of E-mail Summaries -- MAR Issues 9 through 11

The Children, Families, Health, and Human Services Interim Committee is responsible for reviewing administrative rules promulgated by the Department of Public Health and Human Services (DPHHS) and the entities attached to DPHHS for administrative purposes for compliance with the Montana Administrative Procedure Act (MAPA). At its June 2015 meeting, the Committee elected to receive biweekly e-mails from staff, which summarize DPHHS rule activity and any issues noted in rule review. This paper is a compilation of those summaries that were prepared since the mailing for the Committee's May meeting.

#### **The Department has proposed the following:**

##### **MAR Notice Number: 37-747**

**Subject:** Hospice reimbursement and updates

**Summary:** The Department is proposing to amend administrative rules that currently incorporate by reference portions of the Code of Federal Regulations (CFR) pertaining to standards for participation in and reimbursement rates for hospice care. The proposed amendments mainly involve updating references to more recent versions of the CFRs. The Department states that the proposed amendments are necessary to incorporate the most recent federal regulations governing hospice participation and reimbursement. Failure to update the rules will result in the hospice program being out of compliance with federal regulations.

**Notes/Hearing:** A public hearing is scheduled on May 26, 2016, at 10 a.m. in the auditorium of the DPHHS building.

##### **MAR Notice Number: 37-751**

**Subject:** Children's Mental Health Bureau Medicaid Services Policy Manual revisions

**Summary:** The Department is proposing revisions to the Children's Mental Health Bureau Medicaid Services Policy Manual, including but not limited to the following:

- removing references to the Montana CANS Functional Assessment because the Department has discontinued the requirement of the CANS assessment;
- inserting a new subchapter regarding youth leaving correctional facilities and entering services provided by Montana Medicaid;
- clarifying serious emotional disturbance diagnosis requirements for youth under 6 years of age and youth 18 to 20 years of age who are in an accredited secondary school;

- requiring prior authorization for out-of-state acute inpatient hospitals; and
- revising psychiatric residential treatment facility (PRTF) requirements, including changing medical necessity and continued stay criteria; adding documentation requirement for in-state PRTF denials; and providing that a discharge plan review form be optional.

The Department has determined that there is no fiscal impact associated with the proposed changes.

Notes/Hearing: A public hearing is scheduled on May 26, 2016, at 9 a.m. in the auditorium of the DPHHS building.

**MAR Notice Number:** 37-753

Subject: Achieving a Better Life Experience (ABLE) Program

Summary: The Department is proposing administrative rules to establish the Achieving a Better Life Experience (ABLE) Program which was enacted with the passage of SB 399 (2015). The rules set forth the following:

- Rule I: Purpose of program
- Rule II: Definitions
- Rule III: One Time Fee for Setting up a New Account (\$25)
- Rule IV: Duties of a Program Manager
- Rule V: Qualifications for Opening an Account
- Rule VI: Contributions and Limits
- Rule VII: Withdrawals
- Rule VIII: Reporting Requirements
- Rule IX: Termination of Program Manager

The primary bill sponsor was notified by mail on April 27, 2016. Also, Medicaid monies will not be used in the operation of the ABLE Program; therefore, performance based measures are not applicable.

Notes/Hearing: A public hearing is scheduled on June 9, 2016, at 10 a.m. in the auditorium of the DPHHS building.

**MAR Notice Number:** 37-754

Subject: Trauma Care Committee and Site Review Team Makeup

Summary: The Department is proposing to amend administrative rules regarding trauma care advisory committees and the composition of site review teams. Currently, a site review team must include at least one general surgeon and a trauma nurse coordinator. The Department is proposing to amend the rule to require two general surgeons and eliminate the requirement for a trauma nurse coordinator. The amendments are being proposed to reflect current routines and practices. The Department has determined that the amendments will not significantly and directly impact small businesses.

Notes/Hearing: A public hearing is scheduled on June 23, 2016, at 9 a.m. in Room 207 of the DPHHS building on North Sanders.

**The Department has amended the following:**

**MAR Notice Number:** 37-745

**Subject:** Revision of fee schedules for Medicaid provider rates

**Summary:** The Department is proposing provider rate increases to reflect appropriations contained in HB 2 (2015).

**Notes/Hearing:** A public hearing is scheduled on May 12, 2016, at 10:30 a.m. in the auditorium of the DPHHS building.

**Amended Proposal Notice Notes:** The Department notes that it inadvertently included in the proposal notice new conversion rates for outpatient hospitals and a new all patient refined - diagnosis related groups fee schedule for inpatient hospitals. The amended proposal notice corrects these errors. The public comment period has been extended to May 27, 2016.

**The Department has adopted the following (adoption notice notes in italics):**

**MAR Notice Number:** 37-737

**Subject:** Medicaid treatment limits, cost-share requirements, and coverage

**Summary:** The Department is proposing multiple amendments concerning Medicaid treatment limits, cost-share requirements, and coverage, including but not limited to the following:

- amending cost-share amounts (including imposing an aggregate cap) and exempting certain individuals and services from cost-sharing;
- requiring providers to bill and collect cost shares after the Department reimburses the provider (rather than at the time of service, which is currently happening);
- including habilitative and rehabilitative services as covered services;
- extending state plan Medicaid benefits to members who are covered through the 00181 Medicaid 1115 waiver (18 years of age or older, have severe disabling mental illness, and either have income of 0-138% of the federal poverty level and are eligible or enrolled in Medicare or have income of 139-150% of the federal poverty level);
- providing that a person categorically eligible for Medicaid as aged, blind, or disabled is not subject to the annual \$1,125 dental treatment limit;
- removing the service limits on speech therapy, physical therapy, and occupational therapy;
- changing allowable eye exam and pair of eyeglasses from 1/730 days to 1/365 days;
- removing the prior authorization requirement on inpatient medical alcohol and drug detoxification services that last over 7 days; and
- removing limits on amount of sessions of cardiac rehabilitation services and pulmonary rehabilitation services (currently limit of 36 sessions).

The Department cites the implementation of the federally required Alternative Benefit Plan as necessitating many of the above changes.

**Notes/Hearing:** A public hearing was held on March 24, 2016. \*\*Contacted agency rule reviewer regarding erroneous AUTH/IMP cites and clarity of draft language.

**Adoption Notice Notes:** The Department received 30+ comments, mostly concerning the cost share requirements. Except for some clerical/clarity edits, the Department amended the rules as proposed.

**MAR Notice Number: 37-739**

Subject: Additional inpatient beds for critical access hospitals

Summary: The Department is proposing to amend the inpatient bed limit for critical access hospitals to allow critical access hospitals to take advantage of a waiver granted under the federal Medicare Improvements for Patients and Providers Act of 2008 that allows critical access hospitals to add 10 inpatient beds for skilled nursing facility or nursing facility level services. The Department states that two Montana facilities -- McCone County Health Center and Roosevelt Medical Center -- have applied and are eligible for the bed increase, and, without the amendment, the facilities will not be able to take advantage of the waiver opportunity.

Notes/Hearing: A public hearing was held on March 24, 2016.

*Adoption Notice Notes:* The Department received no public comment and amended the rule as proposed.

**MAR Notice Number: 37-741**

Subject: Increase in fees for certain certified copies of vital records

Summary: As mandated by HB 223 (2015), the Department is proposing to charge fees in the following amounts for death certificates, with \$3 of each fee deposited into a special revenue account held by the Department of Labor and Industry for the general administration of the Board of Funeral Service: \$15 for the first certified copy of a death certificate; \$8 for each additional copy requested at the same time; and \$13 for informational copies. The Department is also proposing to charge a fee of \$12 for certificates of adoption and rescission of adoption and amendments to vital records. The Department states that this is necessary because some of the activities involve substantial amounts of staff time and the fees currently do not cover the actual cost of these activities.

Notes/Hearing: A public hearing was held on March 24, 2016.

*Adoption Notice Notes:* The Department received no comments. The Department amended the rules as proposed.

**The Department has cancelled the following:**

**MAR Notice Number: 37-750**

Subject: Amendment of rules pertaining to hospitals, inpatient hospitals, rural health clinics, and federally qualified health centers.

Summary: The Department is proposing to amend rules pertaining to hospitals, inpatient hospitals, rural health clinics, and federally qualified health centers in order to update:

- dates and claim forms;
- reimbursement policies for all patient refined - diagnosis related groups (APR-DRGs) inpatient hospitals (calculate claim reimbursement at the lesser of the assigned APR-DRG rate or the claim billed charges (methodology is used throughout the Medicaid program)); and
- definitions applicable to rural health clinics and federally qualified health centers.

Notes/Hearing: The Department has filed a notice of its decision to not adopt the above proposed changes at this time. The public hearing scheduled for May 12, 2016, has been cancelled.

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