



Children, Families, Health, and Human Services Interim Committee

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60th Montana Legislature

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TO: Committee members
FROM: Lisa Mecklenberg Jackson, Staff Attorney
RE: DPHHS Administrative Rule Activity
DATE: January 16, 2008

The Department of Public Health and Human Services has filed the following rule notices with the Secretary of State's Office for publication in the Montana Administrative Register (MAR):

(Notices in their entirety are available online at:

<http://www.dphhs.mt.gov/legalresources/recentlyadoptedrules/index.shtml>)

Notices of Adopted Rules:

I.

MAR 2007 Issue No. 22 (November 21, 2007), MAR Notice No. 37-413, NOTICE OF AMENDMENT -- a public hearing was held October 24, 2007 to consider the amendment of eight rules pertaining to the Low Income Energy Assistance Program (LIEAP) and the Low Income Weatherization Assistance Program (LIWAP). Two comments were received. LIEAP is a federally funded program to help low income households pay their home heating costs. In its initial proposal notice, the department proposed to add a new section to ARM 37.70.607 with regard to the method for calculating the benefits of households that reside in publicly subsidized housing. The provision stated that LIEAP benefits for these households would be computed in accordance with the usual method for computing benefits but the amount of the utility subsidy will be deducted to determine whether the household will receive a LIEAP benefit and, if so, what the amount of the benefit would be. The department felt this provision was necessary to avoid duplication of benefits. The department did receive a comment on this proposal stating that their plan to subtract the amount of utility subsidy from the household benefit received under ARM 37.70.607 is unfair because the utility subsidy is intended to be used for all of the household's utility costs, not just heating costs. The department agreed and further stated that it would be very complicated and time consuming to make a determination for each household as to how much of the subsidy is applied to heating costs and to deduct only that amount. Therefore the department decided not to deduct the utility subsidy in calculating the benefit amount for households that get such subsidies and will not amend ARM 37.70.607 as proposed. Also, in response to an error noted by committee staff, the department made a change to the proposed amendment of ARM 37.70.602, taking out language in the first sentence of ARM 37.70.602(3) regarding a household that changes type of fuel having to file a new application and leaving in the statement later in (3) that a household that changes type of fuel does not have to file a new application.

II.

MAR 2007 Issue No. 23 (December 6, 2007), MAR Notice No. 37-414, NOTICE OF AMENDMENT -- a public hearing was held November 14, 2007 to consider the amendment of one rule pertaining to Vocational Rehabilitation Program provider fees. No one appeared at the hearing to testify and no written comments were received. This rule governs the compensation of providers for the delivery of services and goods to consumers of vocational rehabilitation services provided through the authorization of the Montana Vocational Rehabilitation program. The amendment changes the incorporation by reference from the July 1, 2002 edition of Policy R in the Montana Vocational Rehabilitation Policy Manual to the newly adopted October 1, 2007 edition of Policy R, resulting in a 1.85% increase in provider rates for physical and mental rehabilitation services. This increase was statutorily enacted via HB 2, 2007, and assures increased competition among the providers of voc-rehab authorized physical and mental restoration services so as to maintain the presence of these providers in the market.

III.

MAR 2008 Issue No. 1 (January 17, 2008), MAR Notice No. 37-415, NOTICE OF ADOPTION, AMENDMENT AND REPEAL -- a public hearing was held November 14, 2007 to consider the proposed adoption of one new rule, amendment of 16 rules, and the repeal of one rule pertaining to the Children's Health Insurance Program (CHIP). CHIP is a state and federally funded program to provide health care to children up to the age of 19 with family income and assets greater than the amount that qualifies for Medicaid benefits but less than or equal to 175% of the federal poverty level (FPL). On October 1, 2006 DPHHS began to self-administer the CHIP program and contracted with Blue Cross Blue Shield of Montana for third party administrator (TPA) services. Due to this change, a definition for TPA was added to ARM 37.79.102 and reference to "contract insurers" and descriptions of the process required to enter into contracts for insurance policies were deleted throughout these CHIP rules. Amendments to this section also updated the FPL from 150% to 175% (via the 2007 Legislature) and amended the definition of "serious emotional disturbance" (SED) to reflect 2005 funding for extended mental health benefits for children with SED (SED is now a covered benefit). Amendments shortened the time period from three months to one month that a child may not have creditable coverage before becoming eligible for enrollment in CHIP and clarified the department's current policy that child support received is considered unearned income of the custodial parent and that foster care income is not included in family income for purposes of CHIP eligibility unless the only children in the family are foster care children. ARM 37.79.326 was amended to reflect a change by the 2007 Legislature extending dental benefits to enrollees with significant dental needs. In addition, the department adopted one new rule allowing for electronic applications and signatures. The department adopted the new rule, amended 16, and repealed one, as well as made several small changes to the rules based on comments received. One commentor requested that the department add "or an entity licensed as a health service corporation" to the definition of "Third Party Administrator" as the current CHIP Third Party Administrator performs TPA services under its health insurance license and is not required to be licensed under 33-17-603. The department agrees. Further, the department is revising amendments to ARM 37.79.326(5) to clarify that an individual enrollee's dental benefits available under the extended dental program may be limited by the legislature's annual appropriation for EDP benefits. A commentor requested that ARM

37.79.605(5) be clarified to provide that participating providers may bill the enrollee, parent, or guardian for benefits provided to a CHIP participant, beyond the cost sharing provisions, for services that are not covered benefits. The department agrees and revised the rule. Another commentor recommended the department delete a rule section stating "the third party administrator will receive a monthly administrative fee and weekly claims payment. These payments are considered to be payment in full and the third party administrator may not bill the enrollee, parent, or guardian..." The commentor noted that TPAs do not bill enrollees, parents, or guardians for any medical care or cost sharing amounts. The CHIP program, the department, or the providers are the only entities that would bill for or demand such amounts. The department agreed and made the change.

IV.

MAR 2007 Issue No. 24 (December 20, 2007), MAR Notice No. 37-416, NOTICE OF AMENDMENT -- a public hearing was held November 14, 2007 to consider the amendment of one rule pertaining to Medicaid real property liens. The department amended ARM 37.82.435 as proposed, reducing the time (from 90 days to 30 days) between a determination that a Medicaid applicant or recipient is permanently institutionalized and imposition of a real property lien. Montana's lien statute (53-6-172) requires 30 days notice of intent to impose a lien and the opportunity for a hearing. The department also chose to amend ARM 37.5.307 (Opportunity For Hearing) which was not mentioned in the initial proposal notice. ARM 37.5.307 states that a hearing request must be received by the Office of Fair Hearings within 90 days, except as otherwise provided in the rules. It also lists three types of adverse action for which a hearing request must be received within 30 days. The department was concerned that individuals aggrieved by a proposal to file a Medicaid lien would look only at ARM 37.5.307 and would assume they had 90 days to request a hearing. This would result in confusion and possible unjust liens being filed against real property. Accordingly, the department is amending ARM 37.5.307 to specifically list hearings on proposed Medicaid liens as instances requiring receipt of a hearing request within 30 days in accordance with ARM 37.82.435.

V.

MAR 2008 Issue No. 1 (January 17, 2008), MAR Notice No. 37-417, NOTICE OF AMENDMENT -- a public hearing was held November 14, 2007 to consider the amendment of two rules pertaining to Medicaid reimbursement for dispensing fees and outpatient compound prescriptions. The department proposed changes to the reimbursement methodology for pharmacy providers based on the Deficit Reduction Act of 2005 (DRA) and the federal regulations implementing it. Specifically, the proposed amendments to the federal regulations changed the methodology by which the department calculated the federal upper payment limit. The department proposed changes to the pharmacy dispensing fee rule to reflect results from a statewide Montana Medicaid cost of dispensing survey (Feb.-April 2007), as well as to address the redefinition of "dispensing fee" in the DRA. The Montana Medicaid survey showed the average cost statewide to dispense was \$9.93. Accordingly, the department determined that a \$10 maximum dispensing fee was adequate reimbursement for Montana pharmacies. The department also proposed changes to the compounding dispensing regulations. This was necessary to ensure federal matching funds are available for compounded prescriptions paid for by Medicaid. Prior

authorization requirements for individual components of a compound must be met for reimbursement purposes. The department proposed that the dispensing fee for each compounded drug shall be \$12.50, \$17.50 or \$22.50 based on the level of effort required by the pharmacist. The department received seven comments in opposition to the changes, based on a variety of reasons ranging from inadequate reimbursement for pharmacists to delay in receiving prior authorization for preparing compounds. However, this issue is moot as the department has withdrawn the proposed dispensing fee amendments to ARM 37.86.1101 and restored ARM 37.86.1105 to reflect the withdrawal of these amendments, based on the delay of these provisions at the federal level due to a pending lawsuit.

VI.

MAR 2007 Issue No. 24 (December 20, 2007), MAR Notice No. 37-418, NOTICE OF AMENDMENT -- a public hearing was held November 20, 2007 to consider the amendment of one rule pertaining to Medicaid eligibility. No one appeared at the hearing to testify and no written comments were received. ARM 37.82.101 incorporates by reference the state policy manuals (Family Medicaid Manual and Aged Blind Disabled (ABD) Medical Manual) which govern the administration of the Medicaid program. The revisions to these manuals took effect on January 1, 2008.

VII.

MAR 2007 Issue No. 24 (December 20, 2007), MAR Notice No. 37-419, NOTICE OF AMENDMENT -- a public hearing was held November 15, 2007 to consider the proposed amendment of four rules pertaining to durable medical equipment and medical supplies. No one appeared at the hearing to testify and no written comments were received. The amendments are to rules providing for Medicaid reimbursement of durable medical equipment (DME) services. These changes to existing policy make DME usable in school and workplace settings, change procedures for transmitting DME prescriptions and orders, change the way providers are reimbursed for wheelchairs, allow reimbursement for positioning items in nursing facilities, adopt Medicare's method of reimbursement for rental equipment, update references to Medicare manuals, correct grammatical errors, and delete obsolete provisions. The rule changes were effective January 1, 2008.

VIII.

MAR 2007 Issue No. 24 (December 20, 2007), MAR Notice No. 37-421, NOTICE OF ADOPTION, AMENDMENT AND REPEAL -- a public hearing was held December 3, 2007 to consider the proposed adoption of four new rules, amendment of 13 rules, and the repeal of one rule pertaining to vital statistics. The department adopted the four new rules: Rule I requires the department to issue certificates of birth that have resulted in stillbirth beginning January 1, 2008; Rule II provides the general requirements for all types of vital record amendment and corrections; Rule III standardizes how the department and local registrars amend or replace information on birth or death certificates; and Rule IV provides procedures for adoptions, name changes, and sex changes. The department made changes to new Rules II, III, and IV to allow court orders from jurisdictions outside of Montana. Under MCA 50-15-223, the department may accept legitimate out-of-state court orders for amending, changing, and replacing birth

certificates after adoptions or determinations of paternity. The department received numerous comments opposing the proposed fee increase in ARM 37.8.116 (Fees for Certification, File Searches and Other Vital Records Services) and decided not to amend that rule as this time (see memo from Lisa dated December 6, 2007). The department is meeting with interested parties (their first meeting is January 22, 2008) to clarify and define the applicability of fees and to set the fees for all vital record issuing agencies, specify how the fees will be distributed between the county and the state, and equalize the fees paid by a user whether the service is provided in a county or the state office of vital statistics. Lisa will keep the committee apprised of the work of this interested parties group.

IX.

MAR 2008 Issue No. 1 (January 17, 2008), MAR Notice No. 37-422, NOTICE OF AMENDMENT -- a public hearing was held December 3, 2007 to consider the proposed amendment of ten rules pertaining to newborn screening tests and eye treatment. Eight comments were received. The rule amendments expand the list of screening tests (from four to 28) required to be provided to infants in Montana. SB 162, passed by the 2007 Legislature, authorized the expansion of the panel of required newborn screening tests through rulemaking. The objective is to make sure that all infants born in Montana are afforded the best opportunity and treatment of congenital conditions that can result in catastrophic health, financial, and quality of life consequences to newborns and their families, and that the requirements for testing should keep pace with the medical and scientific capacity to diagnose and treat congenital conditions. In addition, the revised list of required newborn screenings brings Montana in line with national standards for newborn screenings. The department received two comments asking them to amend the proposed rules to remove the list of specific conditions requiring mandatory screening. Instead, they asked that the rules make a general statement requiring that the hospitals and other facilities conduct screening with an expanded panel of tests as "recommended by" the American Academy of Pediatrics. The department declined to make this change, stating they cannot require a hospital or facility to conduct screening for conditions not specifically mentioned in the rules. Additionally, the department does not want to require that a health care provider conduct a screening test on Medicaid patient if that test is not Medicaid reimbursable. Another commentor requested that additional time be provided to hospitals and other facilities conducting newborn screening to allow up to 48 hours to obtain a specimen for a follow-up testing after an abnormal test result is received, instead of requiring that specimen be taken within 24 hours after receiving such notification. The commentor noted that it sometimes takes longer than 24 hours to find the family and to talk to the specialist, who may order a different test after an initial abnormal test result, rather than repeating the same test. The department agrees and the change was made.

Notices of Proposed Rules:

X.

MAR 2007 Issue No. 23 (December 6, 2007), MAR Notice 37-423, NOTICE OF PUBLIC

HEARING ON PROPOSED ADOPTION -- the department has filed a NOTICE OF HEARING in the matter of the adoption of nine new rules pertaining to the awarding of grants to carry out the purposes of the Montana Community Health Center Support Act. A hearing was held January 4, 2008 in Room C207 of the Department of Public Health and Human Services Cogswell Building, 1400 Broadway, Helena, Montana. The comment period ran until January 14, 2008. These rules are necessary to implement HB 406, 2007, which established the Montana Community Health Center Support Act (codified at MCA 50-4-801 through 50-4-815). These rules implement the legislative mandate to enhance access primary care and preventative care for Montana residents by strengthening and supporting Montana's community health centers. This will be done by: 1) creating a grant process; 2) creating and supporting new nonfederally funded community health centers; 3) expanding the medical, mental health, or dental services offered by existing federally qualified health centers (FQHC) or other facilities that have received federally qualified health center look-alike status; and 4) providing one-time grants for capital expenditures to existing federally qualified health centers and facilities with federally qualified health center look-alike status.

Rule I: establishes the purpose of the new rules which is to implement the Montana Community Health Center Support Act.

Rule II: contains definitions.

Rule III: details the process for the advisory group to make recommendations to the department for setting protocols and priorities among goals for awarding grants under the Support Act.

Rule IV: defines the requirements for prospective applicants to apply for a Health Center Support Act grant.

Rule V: states the request for proposal process the department will use to award grants.

Rule VI: describes the criteria that will be used to award the grants (established by the federal government and the state advisory group).

Rule VII: details the initial screening process the department will follow for applicants.

Rule VIII: establishes that an objective grant review process will be used to award grants.

Rule IX: describes the department's process for awarding and administering grants.

There are presently 15 FQHCs providing services for Montanans. In addition, there are numerous satellites. Combined, they receive \$4.8 million in annual Medicaid reimbursement. \$650,000 is available for grants under the Montana Community Health Center Support Act for fiscal years 2008 and 2009.

TECHNICAL NOTE: The proposed rules were reviewed by committee staff and no technical problems were noted.

XI.

MAR 2007 Issue No. 24 (December 20, 2007), MAR Notice 37-424, NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION -- the Department has filed a NOTICE OF HEARING in the matter of the adoption of eight new rules pertaining to newborn hearing screening. A hearing was held January 14, 2008 in the Wilderness Room, 2401 Colonial Drive, Helena, Montana. The comment period runs until January 17, 2008. These rules make newborn hearing screening mandatory, instead of permissive, for all infants born in Montana hospitals or health care facilities and for all infants born outside a hospital or health care facility who are attended to

by a licensed health care provider. These changes came about as a result of HB 117, 2007, which amends the MCA's Newborn Hearing Screening statutes and requires: 1) newborn hearing screening; 2) parental education regarding hearing loss, the importance of early intervention in cases in which a hearing loss is detected, and the methods used to conduct newborn hearing screening; 3) referral for further testing and follow-up by three months of age in cases in which the initial screening identifies a possible hearing loss; and 4) that screening results and audiological assessments be reported to the department and, in cases in which a hearing deficiency has been identified, shared with the Montana School for the Deaf and Blind. The purpose of the rules is to ensure that all infants in Montana are afforded the best opportunity for early identification of, and timely receipt of intervention for, hearing loss to prevent developmental delays and academic failures associated with late identification of hearing loss. An additional objective is to provide necessary public health surveillance information to effectively plan, establish, and evaluate a comprehensive system of appropriate services for infants and children who are deaf or hard of hearing. The department will provide access to newborn hearing screening and audiological assessment tracking software to necessary parties to facilitate the monthly reporting required in these rules. The modifications are not expected to have financial impact on the department as any additional screening costs are expected to be bundled within standard delivery and newborn treatment charges.

TECHNICAL NOTE: The proposed rules were reviewed by committee staff and no technical problems were noted.

XII.

MAR 2007 Issue No. 24 (December 20, 2007), MAR Notice 37-425, NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT -- the Department has filed a NOTICE OF HEARING in the matter of the proposed amendment of five rules pertaining to automated external defibrillators. A hearing was held January 14, 2008 in the Wilderness Room, 2401 Colonial Drive, Helena, Montana. The comment period runs until January 17, 2008. These changes to the existing rules are proposed to broaden the category of health professionals licensed in Montana who are qualified to be trained and designated to supervise Automated External Defibrillator (AED) programs. SB 95, passed in 2007, amended Title 50, chapter 6, part 5 of the MCA in order to remove the requirement that a physician be a director of an AED. This reflects the legislature's desire that while medical oversight of an AED program is required, it need not be by a physician. These rule proposals also reflect the legislature's requirement that the department set guidelines for the medical oversight of an AED program and update the training requirements that the department has set for persons who are trained to operate an AED.

TECHNICAL NOTE: The proposed rules were reviewed by committee staff and no technical problems were noted.

XIII.

MAR 2007 Issue No. 24 (December 20, 2007), MAR Notice 37-426, NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION -- the department has filed a NOTICE OF HEARING in the matter of the proposed adoption of 16 new rules pertaining to home and community

services for seriously emotionally disturbed youth. A hearing was held January 14, 2008 in the Wilderness Room, 2401 Colonial Drive, Helena, Montana. The comment period runs until January 17, 2008. In 2005, Congress authorized the Centers for Medicare and Medicaid Services (CMS) of the federal Department of Health and Human Services to provide grants to ten states to support the effort of each state to develop and propose to CMS a new type of Medicaid funded home and community waiver program to serve youth with severe emotional disturbance in their communities as opposed to placement in restrictive residential youth treatment facilities. Montana submitted a proposal to CMS to receive one of the ten state grants and was selected to receive a grant. The services in this program are not available generally through existing public programs. The department notes that these rules were modeled after rules governing similar home and community services within the department funded by Medicaid (for individuals with developmental disabilities, elderly or physical disabilities, brain injuries, or adults with severe mental illness) and based on federal requirements.

Rule I: Federal Authorization and State Administration

Acknowledges in rule the federal authorities governing the implementation of the new program of Home and Community Services for Youth with Serious Emotional Disturbance, states generally the parameters of the department's discretion in the development and administration of the program, and expressly denotes the number of service opportunities to be provided and the geographical location of those opportunities.

Rule II: Eligibility for Program

The proposed rule states the eligibility criteria for acceptance into the program and defines a service population which is essential to federal approval of the program as a Medicaid funded home and community program. The federal authorities limit the potential service populations to persons who can meet standard Medicaid eligibility and who are with a well-defined service population predicated upon one or more types of disabilities. These criteria are based on national criteria for establishing the presence of serious emotional disturbance.

Rule III: Selection for Placement

Service opportunities under federal law for Medicaid funded home and community services are not available on an unlimited basis. Federal officials require a ceiling be placed upon the service population for the program. The proposed rules list the factors the department can consider in selecting eligible youth and are necessary to assure that the number of service opportunities are rationed within the limits of the federal approval and state appropriations.

Rule IV: Loss of a Service and Disenrollment

The proposed criteria to govern disenrollment and loss of service from the program were generally drawn from already established home and community service programs in the department and address such items as failure of the youth to participate, services no longer appropriate, etc. Specification of this criteria is necessary to provide notice to participants and conformance with governing federal authority.

Rule V: The Provision of Services

The offered services are those which the department determined would be of positive consequence in meeting the goals of the program to provide certain health and health related needs that would maintain youth with serious emotional disturbance in community settings and that are appropriate services to be delivered under the service criteria of governing federal authorities. The services include consultative clinical and therapeutic services, customized goods

and services, education and support services, home-based therapy, nonmedical transport, and respite care.

Rule VI: Plans of Care and Plan Management

The proposed rule establishes the process for development of a plan of care by a plan manager, provides that the department is responsible for the plan of care, and denotes the intervals for which plans of care are initially developed and subsequently reviewed (every three months). The federal authorities governing the program require individual plans of care for each participating youth.

Rule VII: Cost of Plans of Care

Individual limits for each youth may not exceed the federal individual expenditure limitation of 100% of the average cost of psychiatric residential treatment facility care. These fiscal limitations are necessary to ensure that the state may fiscally manage the program within the legislative appropriation available for the program and within the restrictions imposed by the governing federal authorities and in turn to apprise youth, providers, and others of these fiscal limitations.

Rule VIII: Provider Requirements

The proposed rules provide that a provider would need to be enrolled as a Medicaid provider, comply with the Medicaid fiscal and quality assurance standards, be a legal business entity, obtain and maintain appropriate insurance coverage, and conform with facility and professional licensing standards. The proposed rule also precludes immediate family members from serving as a provider

Rule IX: Reimbursement

The proposed rule groups lists of services for each type of reimbursement methodology and describes their reimbursement. The proposed rule also states that reimbursement is not available for services that may be reimbursed through another program, there is no copayment cost sharing requirement for program services, and there is no reimbursement for the provision of program services to other members of a recipient's household or family. This rule is necessary to ensure that services provided through the program are appropriately purchased and that there is a common scheme of reimbursement assuring the fairness of reimbursement among providers and consumers.

Rule X: Notice and Fair Hearing

The proposed rule incorporates the rules adopted by the department to govern administrative appeals pertaining to issues in the provision of Medicaid funded services. The department must provide written notice of an potential adverse determination and allow a youth the opportunity to request a fair hearing.

Rule XI: Consultative Clinical and Therapeutic Service, Requirements

Must be provided by licensed psychiatrist, physician, or mid-level practitioner.

Rule XII: Customized Goods and Services, Requirements

Rules allow for purchase of customized goods or services not typically reimbursed by Medicaid.

Rule XIII: Education and Support Services, Requirements

Education and support services are provided to family members, unpaid caregivers, and persons providing treatment or otherwise involved in the youth's life.

Rule XIV: Home-Based Therapy Services, Requirements

Includes licensed social workers, professional counselors, and psychologists who provide

individual or family therapy in the youth's residence.

Rule XV: Nonmedical Transportation Services

Nonmedical transportation services are provided only after volunteer transportation services have been exhausted.

Rule XVI: Respite Care Services

May be provided on a short term basis in a community setting, such as the youth's place of residence.

Proposed Rules XI through XVI specify the requirements for the various specific services that may be obtained and paid for through the Home and Community Services Program for Youth with Serious Emotional Disturbance. These requirements have been drawn in part from the requirements applicable to those services currently provided in the context of the department's other programs of home and community services. Uniformity of requirements among the programs is appropriate for purposes of administrative convenience and provider performance and compliance. In addition, these services, as proposed, allow for Medicaid coverage that is not available through the existing standard set of mental health services funded with Medicaid monies. The Montana Legislature appropriated monies for the purpose of funding the implementation and maintenance of this program during the biennium. When the program is fully implemented during SFY 2009, expenditures under the program are projected to be approx. \$1.3 million--30% state general fund and 70% federal Medicaid monies. When fully implemented, the service will provide for 100 slots statewide. Because this is a pilot program, the state has obtained permission to incrementally implement it in a limited set of counties. The first county offering the Home and Community Services for Youth Program with Serious Emotional Disturbance is Yellowstone County with 20 slots. As other locales are selected, the rules will be amended to add the new areas.

TECHNICAL NOTE: The proposed rules were reviewed by committee staff and no technical problems were noted. Legal staff did attend the public hearing on January 14 and no one appeared to testify. Department staff present noted that these proposed new rules will likely go into effect sometime in February 2008 and they hope to implement the new program in March 2008.

XIV.

MAR 2008 Issue No. 1 (January 17, 2008), MAR Notice 37-427, NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT -- the department has filed a NOTICE OF HEARING in the matter of the proposed amendment of one rule pertaining to Medicaid reimbursement for the therapeutic portion of therapeutic youth group home treatment services. A hearing will be held February 7, 2008 in the Wilderness Room, 2401 Colonial Drive, Helena, Montana. The comment period runs until February 14, 2008. The department is proposing an amendment to ARM 37.86.2207 that would update the department's Medicaid Mental Health and Mental Health Services Plan, Individuals Under 18 Years of Age Fee Schedule to October 1, 2007 rates. Also, the 2007 Legislature in HB 2 added \$23,785 in general funds and \$69,943 in federal Medicaid matching funds to raise the Medicaid rate for Campus Based Therapeutic Youth Group Homes (CBTGH) to be effective July 1, 2007. The department is proposing a new reimbursement methodology based on a modified cost settlement process. As part of this

methodology, and to ensure client access, the department is proposing to equalize the CBTGH reimbursement rate and bring it up to the same level paid to other therapeutic group homes (as long as they are recognized as a separate level of care). The department allocated an additional \$91,283.56 for this purpose in SFY 2008. The Legislature also appropriated funding for a 2.5% rate increase for providers of therapeutic youth group home treatment services for each year of the biennium. The SFY 2008 start date is October 1, 2007 and the funding is \$1,580.237. The SFY 2009 start date is July 1, 2008. Total new funding for this biennium is \$3,070.706. The department estimates that 13 therapeutic group home agencies, six therapeutic foster/family care agencies, eight mental health centers, and three in-state residential treatment centers may be affected by these rule changes.

TECHNICAL NOTE: The proposed rules were reviewed by committee staff and no technical problems were noted.

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