

MONTANA ADMINISTRATIVE REGISTER

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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 14

The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted. The Rule Adoption Section contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after print publication of the adoption notice unless otherwise specified in the final notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. Special notices and tables are found at the end of each Register.

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 444-2055.

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BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rules I through XII pertaining to Air) PROPOSED ADOPTION
Ambulance and Hold Harmless)
Dispute Resolution)

TO: All Concerned Persons

1. On August 14, 2017, at 9:00 a.m., the Commissioner of Securities and Insurance, Office of the Montana State Auditor (CSI), will hold a public hearing in the 2nd floor conference room, at the Office of the Montana State Auditor, Commissioner of Securities and Insurance, 840 Helena Ave., Helena, Montana, to consider the proposed adoption of the above-stated rules.

2. The CSI 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 CSI no later than 5:00 p.m. on August 3, 2017, to advise us of the nature of the accommodation that you need. Please contact Ramona Bidon or Lisa Monroe, CSI, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2726; (406) 444-1942; TDD (406) 444-3246; fax (406) 444-3499; or e-mail rbidon@mt.gov or lmmonroe@mt.gov.

3. The new rules as proposed to be adopted provide as follows:

NEW RULE I PURPOSE (1) These rules are intended to establish an expedient and economical process for resolving billing disputes between insurers or health plans and air ambulance services. The independent reviewer shall conduct all aspects of the dispute resolution process in a manner that furthers these objectives while providing for accurate determination of fair market price.

AUTH: 2-18-720, 20-25-1320, 33-2-2306, MCA
IMP: 2-18-720, 20-25-1320, 33-2-2306, MCA

Reason: These rules implement Senate Bill 44, passed by the 2017 Montana Legislature and signed into law by Governor Steve Bullock. In relevant part, the legislation provides a dispute resolution mechanism for insurers or health plans and air ambulance services who cannot reach agreement regarding the fair market price of services provided. The legislation requires the CSI to adopt procedural rules regarding the dispute resolution process, as well as rules regarding independent reviewer eligibility.

The rules are drafted to provide an efficient process leading to a reasoned determination by a qualified decision maker. The legislation makes clear that the dispute resolution is not a substitute for civil litigation, and the parties may pursue

that route following the independent review. Thus, these rules provide for a more flexible process responsive to the parties' preferences for how best to reach a determination of fair market price. The legislative intent of flexibility is reflected in Senate Bill 44 by the fact that the parties are first encouraged to negotiate an agreed-upon amount without recourse to dispute resolution, as well as their ability to mutually select their own independent reviewer.

NEW RULE II MAPA INAPPLICABLE (1) A dispute resolution process subject to this subchapter:

- (a) is not a contested case as defined in 2-4-102, MCA;
 - (b) is not a proceeding before the commissioner; and
 - (c) is not subject to the Montana Administrative Procedure Act, Title 2, chapter 4, MCA.
- (2) The independent dispute resolution process is exhausted upon issuance of the independent reviewer's final decision. A final decision:
- (a) is not appealable;
 - (b) does not limit or create any private rights or remedies for either party;
- and
- (c) does not preclude a party from pursuing any available remedies in a court of competent jurisdiction.

AUTH: 2-18-720, 20-25-1320, 33-2-2306, MCA

IMP: 2-18-718, 2-18-719, 2-18-720, 20-25-1318, 20-25-1319, 20-25-1320, 33-2-2304, 33-2-2305, 33-2-2306, MCA

REASON: New Rule II clarifies that the dispute resolution process is a private arbitration-style process not subject to the requirements of the Montana Administrative Procedure Act. The process is not a "proceeding before an agency" and does not determine "legal rights, duties, or privileges." See 2-4-102(4), MCA. The process is overseen by an independent reviewer, and does not result in a decision binding on either party. As a result, no appeal rights are available or necessary, and the independent reviewer's decision does not prevent subsequent litigation in a court of competent jurisdiction.

NEW RULE III CONFIDENTIALITY (1) The parties and independent reviewer shall maintain the confidentiality of all information protected under applicable law, including protected health information under the Health Insurance Portability and Accountability Act of 1996 or personal information protected under Title 33, Chapter 19, MCA. The parties shall limit disclosure of protected information, including to the independent reviewer, to the minimum necessary to effectuate the dispute resolution process.

AUTH: 2-18-720, 20-25-1320, 33-2-2306, 33-19-106, MCA

IMP: 2-18-718, 2-18-719, 2-18-720, 20-25-1318, 20-25-1319, 20-25-1320, 33-2-2304, 33-2-2305, 33-2-2306, 33-19-306, MCA

REASON: New Rule III ensures that all parties involved in a dispute resolution process abide by state and federal information privacy laws. For example, the Health Insurance Portability and Accountability Act of 1996 restricts the disclosure of protected health information held by health insurers, employer sponsored health plans, medical providers, and other parties. Likewise, Title 33, Chapter 19 of the Montana Code Annotated in some cases provides even broader protection of personal information. New Rule III ensures that parties are aware of and comply with these and other applicable privacy requirements during the dispute resolution process.

NEW RULE IV NOTICE OF DISPUTE – CONTENT (1) Within 30 days of determining that an insurer or health plan and an air ambulance service cannot resolve a billing dispute, the parties shall file a notice of dispute with the commissioner. The notice shall be mailed to: Office of the Montana State Auditor, c/o Chief Legal Counsel, 840 Helena Avenue, Helena, MT 59601.

(2) The notice must specify:

- (a) the parties to the dispute;
- (b) the date of service;
- (c) the insured and (if different) the individual transported by the air ambulance service;
- (d) the amount in controversy after insurer or health plan payment;
- (e) whether the parties have agreed upon an independent reviewer, and if so, his or her contact information; and
- (f) the contact information of each party's representative for purposes of the dispute.

(3) If multiple billing disputes between the parties are ripe for dispute resolution when the notice of dispute is filed, whether or not involving transport of the same individual, the parties shall identify all such disputes in the notice. The disputes must be consolidated and the assigned independent reviewer shall hear all identified disputes.

(4) Parties shall make reasonable efforts to jointly file the notice of dispute with the commissioner. If one party is uncooperative, a party may file the notice of dispute without the participation of the uncooperative party. In such a case, the filing party shall document in the notice the efforts made to coordinate with the other party.

(5) The parties shall notify each other of the acceptable form of service before or at the time the notice of dispute is filed. If a party does not specify a form of service, service shall be effectuated by mail to the last known business address of the entity.

AUTH: 2-18-720, 20-25-1320, 33-2-2306, MCA

IMP: 2-18-718, 2-18-719, 2-18-720, 20-25-1318, 20-25-1319, 20-25-1320, 33-2-2304, 33-2-2305, 33-2-2306, MCA

REASON: The dispute resolution process is triggered by the parties' filing of a notice of dispute with the CSI. New Rule IV specifies the required content of the notice of dispute. The rule ensures the notice of dispute contains the information

necessary to effectuate the initial steps of the dispute resolution process. For example, the notice of dispute will inform the CSI of whether assignment of an independent reviewer is unnecessary because the parties have jointly selected one. The content will also allow the independent reviewer to verify he or she has no disqualifying conflicts. Finally, parties will serve pleadings and other documentation upon each other throughout the course of the proceeding, and the rule provides the means of determining the proper method of service from the outset of the dispute resolution process.

NEW RULE V INDEPENDENT REVIEWER SELECTION—SUBSTITUTION

(1) If the parties to a dispute agree upon an independent reviewer, the independent reviewer is presumed to be qualified without further verification by the commissioner.

(2) If a party believes an assigned independent reviewer has a conflict of interest, the party may request assignment of a different independent reviewer. Upon receipt of the request, the commissioner shall randomly appoint a replacement independent reviewer.

(3) Each party may request assignment of a different independent reviewer under (2) only once per dispute.

(4) A request under (2) must be made within 10 calendar days after the commissioner notifies the parties of assignment of the independent reviewer or replacement independent reviewer.

AUTH: 2-18-720, 20-25-1320, 33-2-2306, MCA

IMP: 2-18-719, 2-18-720, 20-25-1319, 20-25-1320, 33-2-2305, 33-2-2306,
MCA

REASON: Senate Bill 44 requires the CSI to adopt rules regarding eligibility of the independent reviewer. New Rule V primarily ensures that the parties have confidence in the impartiality of the decision maker. Parties may mutually select an independent reviewer, thereby agreeing that his or her qualifications are sufficient; in such a case, further vetting by the CSI is unnecessary. The section permitting substitution of an independent reviewer provides the parties a remedy if they perceive a potential conflict not previously identified by the CSI; at the same time, the rule ensures parties do not repeatedly substitute independent reviewers in order to select one preferred by them.

NEW RULE VI PRELIMINARY HEARING (1) Unless otherwise ordered by the independent reviewer or agreed to by the parties, within 30 days of appointment the independent reviewer shall hold a telephonic preliminary hearing.

(2) During the preliminary hearing, the parties and independent reviewer shall address any issues precedent to the hearing, including as applicable:

(a) establishing a scheduling order;

(b) whether the parties intend to call experts, and if so, whether the parties will exchange expert reports;

(c) procedures for maintaining confidentiality of documents or testimony;

(d) whether the hearing will be conducted telephonically, in person, or by written submissions;

(e) any dispositive issues, including any assertion that the dispute is not properly subject to the dispute resolution process;

(f) coordinating document exchanges; and

(g) any mechanisms to streamline the dispute resolution process, such as the use of pre-filed testimony.

AUTH: 2-18-720, 20-25-1320, 33-2-2306, MCA

IMP: 2-18-718, 2-18-719, 2-18-720, 20-25-1318, 20-25-1319, 20-25-1320, 33-2-2304, 33-2-2305, 33-2-2306, MCA

REASON: New Rule VI sets forth a procedure for a preliminary hearing. This hearing is intended to facilitate the efficient exchange of discovery-related information, resolve any objections regarding the applicability of the dispute resolution process to the particular circumstances, and provide notice of the forum in which the evidentiary hearing will be held.

NEW RULE VII DISCOVERY (1) Within 14 days after the preliminary hearing, the parties shall exchange all documents upon which they intend to rely at hearing, and a list of all witnesses they intend to call. The parties shall promptly supplement the disclosures as additional documents or witnesses become known.

(2) Each party is limited to one deposition except as agreed otherwise, or as ordered by the independent reviewer.

(3) A party may request additional documentation from the other party that it reasonably believes to be relevant and material to the outcome of the dispute. If a party refuses to comply, the requesting party may petition the independent reviewer, who shall require production if the request is for documentation reasonably believed to meet the standards of relevance and materiality.

(4) Parties may not propound discovery in the form of requests for admission or interrogatories.

AUTH: 2-18-720, 20-25-1320, 33-2-2306, MCA

IMP: 2-18-718, 2-18-719, 2-18-720, 20-25-1318, 20-25-1319, 20-25-1320, 33-2-2304, 33-2-2305, 33-2-2306, MCA

REASON: New Rule VII provides a framework for discovery in the dispute resolution process. This process is limited to the determination of one substantive issue: the fair market price of the services provided. The facts surrounding the event leading to the claim (e.g., the distance and nature of the transport, as well as medical care provided en route) are much less likely to be in dispute than the parties' interpretations as to how the value of services is properly calculated. Therefore, discovery avenues available to the parties (deposition and requests for production, as well as potential expert disclosures as contemplated under New Rule VI) are calculated to elicit material information, while maintaining efficiency and limiting dilatory or overly burdensome discovery requests. The parties may seek relief from the independent reviewer in the event of any discovery disputes.

NEW RULE VIII EVIDENCE AND PROCEDURE (1) The Montana Rules of Evidence and Montana Rules of Civil Procedure do not apply to the independent dispute resolution process.

(2) The parties may offer such evidence as is relevant and material to the dispute.

(3) The independent reviewer shall determine the admissibility of evidence. The independent reviewer may exclude evidence that is cumulative or irrelevant, or if the evidence cannot be sufficiently authenticated.

(4) The independent reviewer may render any necessary procedural determinations not set forth by statute or this subchapter.

AUTH: 2-18-720, 20-25-1320, 33-2-2306, MCA

IMP: 2-18-718, 2-18-719, 2-18-720, 20-25-1318, 20-25-1319, 20-25-1320, 33-2-2304, 33-2-2305, 33-2-2306, MCA

REASON: New Rule VIII provides the independent reviewer broad discretion regarding evidentiary and procedural rulings, consistent with the degree of discretion authorized under Senate Bill 44. Parties have greater flexibility in the types and sources of evidence than would otherwise be available under the Montana Rules of Evidence. At the same time, New Rule VIII maintains the efficiency of the process by requiring evidence to be material, as well as granting the independent reviewer significant leeway to exclude evidence not helpful in making the fair market price determination. This more flexible approach is consistent with the fact that the arbitration-style dispute resolution process is not a contested case hearing or civil litigation.

NEW RULE IX PREPARATION FOR HEARING (1) No less than 14 days prior to the adjudicatory hearing, the parties shall jointly submit a stipulation identifying all facts not in dispute, including as applicable:

(a) distance and method of transportation;

(b) actual rates of air ambulance billing and insurer or health plan reimbursement;

(c) characteristics of the transport vehicle and personnel;

(d) services provided during transport that were billed to the insured; and

(e) each party's calculation of the fair market price for the services provided.

(2) No less than 10 days prior to the adjudicatory hearing, each party shall submit a prehearing brief setting forth its calculation of the fair market price for the services provided, and summarizing the basis for that calculation. A prehearing brief may not exceed 10 double-spaced pages, inclusive of any attachments.

AUTH: 2-18-720, 20-25-1320, 33-2-2306, MCA

IMP: 2-18-718, 2-18-719, 2-18-720, 20-25-1318, 20-25-1319, 20-25-1320, 33-2-2304, 33-2-2305, 33-2-2306, MCA

REASON: New Rule IX streamlines the dispute resolution hearing by requiring the parties to narrow the factual issues in dispute prior to the hearing. By stipulating to

undisputed facts, the parties may reduce the time and expense associated with establishing foundational matters at hearing not material to the disagreement over the fair market price. Additionally, the required prehearing brief serves to apprise the independent reviewer and opposing parties of the basis for each party's position, resulting in a hearing more efficiently addressing the factors dispositive to the independent reviewer's calculation.

NEW RULE X HEARING (1) Unless otherwise requested by either party, all hearings during the independent dispute resolution process must be held telephonically.

(2) Each party shall present evidence and testimony in support of its fair market price calculation. Witnesses shall be subject to examination by the adverse party and independent reviewer.

(3) The parties may consent to waive a telephonic or in-person hearing and proceed by filing opening and rebuttal briefs, with supporting affidavits and evidence, under terms established by the independent reviewer.

AUTH: 2-18-720, 20-25-1320, 33-2-2306, MCA

IMP: 2-18-718, 2-18-719, 2-18-720, 20-25-1318, 20-25-1319, 20-25-1320, 33-2-2304, 33-2-2305, 33-2-2306, MCA

REASON: New Rule X provides for a telephonic hearing by default. Given that billing disputes are minimally reliant upon fact witness (including eyewitness) testimony, the advantages normally associated with an in-person hearing such as observation of witness demeanor are less significant. Moreover, a telephonic hearing limits the parties' accrual of unnecessary expenses. At the same time, the rule provides the parties the flexibility to conduct a hearing in their preferred medium, whether telephonically, in person, or via briefing. The hearing process provides for presentation of evidence and witnesses as is typical in adversarial proceedings.

NEW RULE XI NON-COMPLIANCE WITH ORDER (1) An independent reviewer may order sanctions as necessary to address a party's willful or repeated non-compliance with its obligations under statute, these rules, or an order of the independent reviewer.

(2) Sanctions may include:

(a) disallowing testimony or admission of evidence;

(b) drawing adverse inferences;

(c) a determination that the other party's calculation accurately reflects the fair market price of the services provided; or

(d) any other sanction appropriate for regulation of the proceedings not otherwise disallowed by law.

AUTH: 2-18-720, 20-25-1320, 33-2-2306, MCA

IMP: 2-18-718, 2-18-719, 2-18-720, 20-25-1318, 20-25-1319, 20-25-1320, 33-2-2304, 33-2-2305, 33-2-2306, MCA

REASON: New Rule XI outlines the authority of the independent reviewer to address conduct harmful to the effective resolution of the independent review process. Senate Bill 44 does not grant the independent reviewer authority to levy monetary sanctions, but does convey the authority to regulate the proceedings. Therefore, the independent reviewer may apply procedural sanctions consistent with the nature and severity of the party's misconduct.

NEW RULE XII FINAL DETERMINATION (1) An independent reviewer shall issue a written final determination of the fair market price of the services provided no later than 60 days following the hearing.

(2) The final determination must provide a reasoned basis for the fair market price with supporting factual findings and legal conclusions.

(3) The final determination may not be held confidential, except that any information protected from disclosure by law must be redacted prior to dissemination to a third party.

AUTH: 2-18-720, 20-25-1320, 33-2-2306, MCA

IMP: 2-18-718, 2-18-719, 2-18-720, 20-25-1318, 20-25-1319, 20-25-1320, 33-2-2304, 33-2-2305, 33-2-2306, MCA

REASON: The provision of a written determination of fair market price, with supporting findings and conclusions, informs the parties of the independent reviewer's reasoning based upon the factors identified in Senate Bill 44. Even if the parties choose to litigate the matter outside the dispute resolution process, this detailed explanation of the determination will assist parties in understanding the strengths and weaknesses of their positions. The public nature of the final determination facilitates an information exchange helpful to payors and air ambulance services in better understanding the monetary value of air ambulance transports and related medical services.

4. 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: Michael A. Kakuk, Attorney, Office of the Montana State Auditor, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-0385; fax (406) 444-3497; or e-mail mkakuk@mt.gov, and must be received no later than 5:00 p.m., August 22, 2017.

5. Michael A. Kakuk, Attorney, has been designated to preside over and conduct this hearing.

6. The CSI 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 may sign up by clicking on the blue button on the CSI's website at: <http://csimt.gov/laws-rules/> and may specify the subject matter they are interested in. Notices will be sent by e-mail unless a mailing preference is noted in the request. Requests may also be sent to the CSI in writing. Such written request

may be mailed or delivered to the contact information in 2 above, or may be made by completing a request form at any rules hearing held by the CSI.

7. The bill sponsor contact requirements of 2-4-302, MCA apply and have been fulfilled. The primary bill sponsor was contacted by mail on June 27, 2017.

8. 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.

/s/ Michael A. Kakuk
Michael A. Kakuk
Rule Reviewer

/s/ Kris Hansen
Kris Hansen
Chief Legal Counsel

Certified to the Secretary of State July 10, 2017.

BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

In the matter of the repeal of ARM)	NOTICE OF PROPOSED REPEAL
6.6.1804 unfair discrimination;)	
6.6.4101 accreditation fees; 6.6.5101)	NO PUBLIC HEARING
small employer reinsurance;)	CONTEMPLATED
6.6.5201, 6.6.5202, 6.6.5203,)	
6.6.5204, 6.6.5207, 6.6.5208,)	
6.6.5210, 6.6.5211, 6.6.5212,)	
6.6.5215, 6.6.5216, 6.6.5219,)	
6.6.5220, 6.6.5221, 6.6.5224 Insure)	
Montana program; 6.6.5801,)	
6.6.5802, 6.6.5803, 6.6.5804, and)	
6.6.5805 managed care community)	
networks)	

TO: All Concerned Persons

1. The Commissioner of Securities and Insurance, Office of the Montana State Auditor (CSI), proposes to repeal the above-stated rules.

2. The CSI 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 CSI no later than 5:00 p.m. on August 10, 2017, to advise us of the nature of the accommodation that you need. Please contact Ramona Bidon or Lisa Monroe, CSI, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2726; (406) 444-1942; TDD (406) 444-3246; fax (406) 444-3499; or e-mail rbidon@mt.gov or lmmonroe@mt.gov.

3. The department proposes to repeal the following rules:

6.6.1804 UNFAIR DISCRIMINATION on page 6-208 of the Administrative Rules of Montana.

AUTH: 33-1-313, 33-20-208(8)(f), MCA
IMP: 33-20-208(8), MCA

REASON: The CSI is proposing to repeal this rule because it condones a practice no longer allowed by statute. Specifically, the rule authorizes issuance of life insurance policies on a sex distinct basis. Section 49-2-309, MCA prohibits discrimination in the issuance or operation of an insurance policy solely on the basis of sex. Issuance of life insurance policies differing only on the basis of the gender of the subject of the policy violates 49-2-309, MCA. Therefore, this rule conflicts with existing law and is unenforceable.

6.6.4101 ACCREDITATION FEES on page 6-1051 of the Administrative Rules of Montana.

AUTH: 33-1-313, 33-2-708, MCA
IMP: 33-2-708, MCA

REASON: The CSI is proposing to repeal this rule because in 1999, the Montana Legislature removed the agency's authority to establish an annual accreditation fee by rule. In its place, the legislature instituted the comprehensive fee specified in 33-2-708, MCA. As a result, this rule conflicts with existing law and is unenforceable.

6.6.5101 PLAN OF OPERATION on page 6-1171 of the Administrative Rules of Montana.

AUTH: 33-1-313, 33-22-1822, MCA
IMP: 33-22-1819, MCA

REASON: The CSI is proposing to repeal this rule because it applies to a program that no longer exists, and implements a now-repealed statute. Specifically, the rule incorporates by reference the plan of operation for the Montana Small Employer Health Reinsurance Program (SEHRP) adopted by the CSI pursuant to 33-22-1819, MCA. The SEHRP is no longer in existence, and 33-22-1819, MCA was repealed in 1999.

6.6.5201 DEFINITIONS on page 6-1181 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA
IMP: 33-22-2001, 33-22-2002, 33-22-2003, 33-22-2004, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, MCA

REASON: Repeal of this rule is reasonably necessary because the authorizing and implementing statutes are to be repealed effective October 1, 2017. The rule implemented the Montana Small Business Health Insurance Pool program, also known as Insure Montana. The program ended effective December 31, 2015, and has been fully wound down. Therefore, this rule is no longer needed.

6.6.5202 SMALL BUSINESS HEALTH INSURANCE PURCHASING POOL—
PREMIUM ASSISTANCE AND INCENTIVE PAYMENTS—SMALL BUSINESS
HEALTH INSURANCE TAX CREDITS on page 6-1181 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA
IMP: 33-22-2001, 33-22-2002, 33-22-2003, 33-22-2004, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, 33-22-2009, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5202 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5203 REGISTRATION REQUIRED--ELIGIBILITY on page 6-1182 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2001, 33-22-2002, 33-22-2003, 33-22-2004, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5203 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5204 FISCAL YEAR on page 6-1182 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2005, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5204 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5207 MEETINGS OF THE PURCHASING POOL BOARD on page 6-1182 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2003, 33-22-2004, 33-22-2005, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5207 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5208 PROGRAM MANAGER—ADMINISTRATOR FOR THE PURCHASING POOL on page 6-1183 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2001, 33-22-2002, 33-22-2003, 33-22-2004, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5208 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5210 OFFICERS on page 6-1183 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2003, 33-22-2004, 33-22-2005, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5210 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5211 DUTIES OF THE OFFICERS on page 6-1184 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2003, 33-22-2004, 33-22-2005, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5211 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5212 PARLIAMENTARY AUTHORITY on page 6-1184 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2003, 33-22-2004, 33-22-2005, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5212 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5215 TIMELINE FOR THE PLAN OF OPERATION on page 6-1185 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2002, 33-22-2003, 33-22-2004, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5215 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5216 TIMELINE FOR AUDITS OF THE BOARD on page 6-1185 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2005, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5216 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5219 PAYMENTS OF PREMIUM ASSISTANCE AND PREMIUM INCENTIVE PAYMENTS TO EMPLOYERS on page 6-1185 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA

IMP: 33-22-2004, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5219 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5220 QUALIFIED ASSOCIATIONS on page 6-1186 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA
IMP: 33-22-2004, 33-22-2005, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5220 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5221 WAITING LIST on page 6-1186 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA
IMP: 33-22-2004, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5221 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5224 INSURERS REQUIRED TO REPORT CANCELLATIONS on page 6-1186 of the Administrative Rules of Montana.

AUTH: 33-22-2005, MCA
IMP: 33-22-2004, 33-22-2005, 33-22-2006, 33-22-2007, 33-22-2008, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5224 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5201.

6.6.5801 MANAGED CARE COMMUNITY NETWORKS: DEFINITIONS on page 6-1701 of the Administrative Rules of Montana.

AUTH: 33-31-103, 33-31-115, 53-6-703, MCA
IMP: 53-6-703, MCA

REASON: Repeal of this rule is reasonably necessary because the authorizing and implementing statute 53-6-703, MCA was repealed in 2011. The rule pertained to managed care community networks, a managed care concept that developed in the 1990's. Managed care community networks were not successfully implemented in Montana, and the 2011 Legislature repealed the statutory language authorizing their existence. Therefore, this rule is no longer needed.

6.6.5802 CRITERIA FOR ASSESSING THE FINANCIAL SOUNDNESS OF A NETWORK on page 6-1701 of the Administrative Rules of Montana.

AUTH: 53-6-703(3), MCA

IMP: 53-6-703, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5802 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5801.

6.6.5803 PROTECTION AGAINST INSOLVENCY on page 6-1702 of the Administrative Rules of Montana.

AUTH: 33-31-115, 53-6-703(6), MCA
IMP: 53-6-703, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5803 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5801.

6.6.5804 REDUCTION OR ELIMINATION OF REQUIREMENTS on page 6-1702 of the Administrative Rules of Montana.

AUTH: 33-31-103, 33-31-115, 53-6-703(1)(a), MCA
IMP: 53-6-703, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5804 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5801.

6.6.5805 APPLICATION REVIEW FEE on page 6-1702 of the Administrative Rules of Montana.

AUTH: 33-31-115, 53-6-703(4), MCA
IMP: 53-6-703, MCA

REASON: The CSI is proposing to repeal ARM 6.6.5805 based on the same rationale provided in the statement of reasonable necessity for ARM 6.6.5801.

4. 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: Michael A. Kakuk, Attorney, Office of the Montana State Auditor, 840 Helena Ave., Helena, Montana, 59601; telephone (406) 444-0385; fax (406) 444-3497; or e-mail mkakuk@mt.gov, and must be received no later than 5:00 p.m., August 29, 2017.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Michael A. Kakuk at the above address no later than 5:00 p.m., August 29, 2017.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by

the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 10 persons based on an estimate of the insurers who may need to update their internal procedures to reflect these rule changes, and have not already done so. This number does not capture all Montana insurers, given that these rules are already not enforced or are unenforceable and insurers have generally accounted for these changes already.

7. The CSI 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 may sign up by clicking on the blue button on the CSI's website at: <http://csimt.gov/laws-rules/> and may specify the subject matter they are interested in. Notices will be sent by e-mail unless a mailing preference is noted in the request. Requests may also be sent to the CSI in writing. Such written request may be mailed or delivered to the contact information in 2 above, or may be made by completing a request form at any rules hearing held by the CSI.

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

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

/s/ Michael A. Kakuk
Michael A. Kakuk
Rule Reviewer

/s/ Kris Hansen
Kris Hansen
Chief Legal Counsel

Certified to the Secretary of State July 10, 2017.

BEFORE THE BOARD OF MASSAGE THERAPY
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.155.604 licensure by) PROPOSED AMENDMENT
examination, 24.155.608 licensure of)
out-of-state applicants, and)
24.155.613 nonroutine applications)

TO: All Concerned Persons

1. On August 16, 2017, at 10:00 a.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Massage Therapy (board) no later than 5:00 p.m., on August 9, 2017, to advise us of the nature of the accommodation that you need. Please contact Steve Gallus, Board of Massage Therapy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2370; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdlmt@mt.gov (board's e-mail).

3. The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

24.155.604 LICENSURE BY EXAMINATION (1) through (1)(a)(i) remain the same.

(ii) a copy of a ~~certified~~ an official transcript or certificate of completion ~~sent directly from the official custodian of the record,~~ evidencing to the board's satisfaction that the applicant has a high school diploma or its equivalent;

(iii) through (vi) remain the same.

AUTH: 37-1-131, 37-33-405, MCA

IMP: 37-1-131, 37-33-502, MCA

REASON: The board determined it is reasonably necessary to amend this rule and ARM 24.155.608 to allow applicants to provide official copies of their transcripts. By no longer requiring certified transcripts delivered by a records custodian, the amendment will facilitate effective, timely licensure and align with standardized department application procedure.

24.155.608 LICENSURE BY CREDENTIAL OF OUT-OF-STATE APPLICANTS (1) All applicants for licensure by ~~endorsement credential~~ shall submit a completed application on a form prescribed by the department.

(2) and (2)(a) remain the same.

(b) a copy of a ~~certified~~ an official transcript or certificate of completion sent ~~directly from the official custodian of the record~~, evidencing to the board's satisfaction that the applicant has a high school diploma or its equivalent;

(c) through (e) remain the same.

AUTH: 37-1-131, 37-33-405, MCA

IMP: 37-1-131, 37-1-304, 37-33-502, MCA

24.155.613 NONROUTINE APPLICATIONS (1) remains the same.

(a) ~~that the applicant has a prior felony conviction of any nature or a prior misdemeanor conviction relating to sex or violence~~ a total of three or more currently pending charges or past convictions of misdemeanor crimes if the applicant was sentenced for the past convictions no earlier than five years before the board received the application;

(b) a pending charge of any felony crime or a past conviction of any felony crime for which the applicant was either sentenced no earlier than ten years before the date the board received the application or for which the sentence has not been fully satisfied and discharged;

(c) a pending charge of any crime or a past conviction of any crime relating to sex;

~~(b) that the applicant has had two or more alcohol or drug related convictions within the last three years;~~

(c) through (g) remain the same but are renumbered (d) through (h).

(2) remains the same.

AUTH: 37-1-131, 37-33-405, MCA

IMP: 37-1-101, 37-1-131, 37-33-501, 37-33-502, MCA

REASON: Under the authority of 37-1-101, MCA, the department receives and processes routine license applications for the professional licensing boards, while nonroutine applications are reviewed by the boards. The board determined it is reasonably necessary to amend this rule to broaden the criminal history reviewed in the application process to focus board review on more recent felony and misdemeanor charges and convictions. This change will allow applicants with older, resolved criminal histories to become licensed more quickly, while ensuring board review of applications with increased risk to public safety.

The board is adding (1)(c) to specify that the board must review applications containing criminal histories related to sex. The board determined this will ensure a thorough review and adequate public protection when considering these applications.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be

submitted to the Board of Massage Therapy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdlmt@mt.gov, and must be received no later than 5:00 p.m., August 18, 2017.

5. An electronic copy of this notice of public hearing is available at www.massagetherapists.mt.gov (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. 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 that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Massage Therapy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdlmt@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

8. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.155.604, 24.155.608, and 24.155.613 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Massage Therapy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2370; facsimile (406) 841-2305; or to dlibsdlmt@mt.gov.

9. Steve Gallus, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF MASSAGE THERAPY
ANNE GERGEN, CHAIRPERSON

/s/ DARCEE L. MOE

Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY

Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State July 10, 2017.

BEFORE THE BOARD OF PUBLIC ACCOUNTANTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF PUBLIC HEARING ON
24.201.301 definitions; 24.201.535 and) PROPOSED AMENDMENT,
24.201.537 licensing; 24.201.2101) ADOPTION, AND REPEAL
renewals; 24.201.2106, 24.201.2120,)
24.201.2124, 24.201.2136,)
24.201.2137, 24.201.2138, and)
24.201.2139 continuing education;)
24.201.2410 complaint procedures; the)
adoption of NEW RULE I credit for)
blended learning; and the repeal of)
ARM 24.201.704, 24.201.705,)
24.201.706, 24.201.707, 24.201.708,)
24.201.709, 24.201.710, 24.201.718,)
24.201.720, and 24.201.726)
professional conduct)

TO: All Concerned Persons

1. On August 16, 2017, at 9:00 a.m., a public hearing will be held in the basement conference room #B-07, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment, adoption, and repeal of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Public Accountants (board) no later than 5:00 p.m., on August 9, 2017, to advise us of the nature of the accommodation that you need. Please contact Grace Berger, Board of Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2244; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdpac@mt.gov (board's e-mail).

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The National Association of State Boards of Accountancy (NASBA) recently adopted new continuing professional education (CPE) standards. Because of this, the board formed a task force of board members and Montana Society of CPA members to evaluate the board's current CPE requirements. The board determined it is reasonably necessary to amend the CPE rules as a result of the task force recommendations and to align with the newly adopted NASBA standards.

The board is amending several other rules in this notice to save the expense of multiple rule projects. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule.

4. The rules proposed to be amended are as follows, stricken matter interlined, new matter underlined:

24.201.301 DEFINITIONS (1) remains the same.

~~(2) "Certificate holder" means a person holding a certificate issued by the board pursuant to 37-50-302, MCA, who has met the educational, but not the experience requirement and cannot practice public accounting in Montana.~~

(2) "Blended learning program" means an educational program incorporating multiple learning formats, different delivery methods, and is synchronous and asynchronous.

(3) through (5) remain the same.

(6) "Continuing professional education (CPE)" means an integral part of the lifelong learning required to provide competent service to the public. It is the set of activities that enables CPAs to maintain and improve their professional competence.

(6) through (12) remain the same but are renumbered (7) through (13).

(14) "Group program" means any live or group Internet-based program.

(13) through (16) remain the same but are renumbered (15) through (18).

(19) "Nano-learning program" means a tutorial program designed to permit a participant to learn a given subject in a ten-minute timeframe through the use of electronic media (including technology applications and processes and computer-based or web-based technology) and without interaction with a real-time instructor. A nano-learning program is typically focused on a single learning objective and is not paper-based. A nano-learning program is not a group program. Nano-learning is not a substitute for comprehensive programs addressing complex issues.

(17) through (26) remain the same but are renumbered (20) through (29).

(30) "Program sponsor" means the individual or organization responsible for issuing the certificate of completion, and maintaining the CPE completion documentation.

(27) and (28) remain the same but are renumbered (31) and (32).

(33) "Self-study program" means an educational program completed individually without the assistance or interaction of a real-time instructor.

(29) through (34) remain the same but are renumbered (34) through (39).

(40) "Technical committee" means a committee of an international, national, or state professional association, council, or member organization, or a governmental entity that supports professional services or industries that require unique and specific knowledge in accounting or tax compliance and serves as a resource to identify issues regarding the practice of accountancy and develops technical or policy recommendations on those issues.

(41) "Technical fields of study" means technical subjects that contribute to the competence of a CPA in the profession of accountancy and that directly relate to the CPA's field of business.

(42) "Technical reviewer" means a subject matter expert other than the course developer who reviews a group, self-study, nano-learning, or blended learning program to ensure the program is technically accurate, current, and addresses the stated learning objectives.

AUTH: 37-1-319, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, MCA

REASON: Because the profession is currently recognizing many new methods of obtaining CPE, the board is amending the CPE rules to allow some of those alternative CPE methods. The board believes the new delivery methods are valuable to licensees and have satisfactory attendance verification processes in place. The board is therefore amending this rule to address confusion by defining relevant new CPE terminology, as well as more general CPE definitions.

The board is also striking the definition of certificate holder from (2) as that level of licensure was eliminated by House Bill 44 in 2015. Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

24.201.535 INACTIVE TO ACTIVE LICENSE - RESTORATION (1) A licensee who holds a license in good standing but is not currently practicing public accounting may place the license on inactive status by informing the board office, in writing, that an inactive status is desired. It is the sole responsibility of the inactive licensee to keep the board informed of current contact information during the period of time the license remains on inactive status.

(2) A An inactive licensee may not use the title CPA, CPA (inactive), or practice public accounting in the state while the license is on inactive status.

(3) through (5) remain the same.

AUTH: 37-1-319, 37-50-203, MCA

IMP: 37-1-319, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend (1) to clearly express the board's intent that only licensees in good standing but not currently practicing may place their licenses on inactive status.

The board is amending (2) to address confusion by specifying that inactive licensees may not use the CPA title. The board is proposing this amendment now following an overall review of inactive and retired rules in response to recent amendments to the Uniform Accountancy Act (UAA).

24.201.537 RETIRED STATUS (1) A licensee who is fully retired from active employment in the practice of public accounting may submit a retired status request to the board: if the licensee:

- (a) holds a license in good standing; and
- (b) is at least 60 years of age; or
- (c) has held a license in good standing for at least 20 years from a substantially equivalent jurisdiction as determined by NASBA's national qualifications appraisal service or a successor organization.

(2) An applicant for retired status must affirm:

(a) they understand the scope of limitations on what services they offer;

(b) agreement not to use their retired status in any way which could be misleading; and

(c) maintenance of professional competence, without a specific CPE requirement, when offering any of the permitted volunteer services.

(3) Upon approval of the request, the individual will be required to pay an annual renewal fee. A retired licensee is required to renew on an annual basis, but is exempt from CPE requirements. It is the sole responsibility of the retired licensee to keep the board informed of current contact information.

(4) They A retired licensee may:

(a) use the designation "CPA (Retired)" or "LPA (Retired)"; and

(b) provide the following, volunteer, uncompensated services:

(i) tax preparation services;

(ii) government-sponsored business mentoring programs; and

(iii) serve on the board of directors for a non-profit organization.

(2) and (3) remain the same but are renumbered (5) and (6).

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-1-141, 37-50-101, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to establish criteria for obtaining a retired license status. Noting that the profession and the public view someone in retired status as having both expertise and time in the profession, the board intends the status for only those that meet the specific requirements in this amended rule.

The board further concluded that retired CPAs are viewed by society as possessing knowledge and skills that could benefit various community organizations. The board is amending this rule to clarify that retired CPAs may serve their communities in limited circumstances as this will be beneficial to both the retired licensees and their communities.

The board is also amending this rule to address questions by clarifying that while on retired status, licensees agree to certain limits on holding themselves out to the public and not confusing or misleading the public. It is also the retired CPA's responsibility to inform the board of current contact information.

24.201.2101 RENEWALS (1) Renewal licenses will be issued by the board to all certified public accountants and licensed public accountants eligible for renewal upon ~~completion of applicable CPE~~, submitting the complete renewal form, and payment of the established renewal fees, pursuant to ARM 24.201.410.

(2) remains the same.

AUTH: 37-1-131, 37-50-201, 37-50-203, MCA

IMP: 37-1-141, 37-50-203, 37-50-314, MCA

REASON: The board is amending this rule to eliminate the completion of applicable CPE as a requirement for renewal. Following a recommendation by department legal staff, the board is amending this rule to align the affirmation of CE required at renewal with the provisions of 37-1-306, MCA. The amendments fall within standardized department procedure by having licensees with mandatory CE affirm an understanding of the CPE requirement, as part of a complete renewal application.

24.201.2106 BASIC CONTINUING EDUCATION REQUIREMENT

(1) remains the same.

(2) Active licensees will be required to affirm their ~~compliance with~~ understanding of the basic requirement upon annual renewal. This affirmation will be for the three calendar years immediately preceding the renewal year.

(3) Beginning January 1, 2018, active licensees must complete a minimum of 50 percent (60 hours) of the total CPE hours required in technical fields of study as identified in ARM 24.201.2120. Subjects other than technical and nontechnical fields of study may be acceptable if the licensee can demonstrate to the board's satisfaction that such subjects or specific programs contribute to the maintenance of the licensee's professional competence.

~~(3)~~ (4) Applicants for a ~~permit to practice~~ license must meet the basic requirement of CPE by December 31 of the third year following the year of the initial issuance of the Montana license (example: If an individual received their license in ~~2015~~ 2017, they must meet the basic CPE requirement by December 31, ~~2018~~ 2020).

(4) remains the same but is renumbered (5).

(6) A nonresident Montana licensee shall be determined to meet Montana CPE requirements by meeting the CPE requirements in the state where their principal place of business is located. If the nonresident licensee's principal place of business state has no CPE requirements for renewal, the nonresident licensee must comply with all CPE requirements for renewal of a license in Montana.

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, MCA

REASON: Following a recommendation by department legal staff, the board is amending (2) to align the affirmation of CE required at renewal with the provisions of 37-1-306, MCA.

The board is adding (3) to underscore the very purpose of CPE by requiring that at least 50 percent of the total CPE be from technical fields of study. While allowing for a wide range of subjects to meet the requirement, the purpose of CPE is to contribute directly to the professional competence of an individual licensed to practice public accounting. To maintain competence and enhance public protection, the board concluded that a portion of CPE should focus on the core of the public accounting practice. Because this is an additional requirement, the board is adding a starting date for implementation.

The board determined it is reasonably necessary to add (6) and implement CPE reciprocity for licensees licensed in multiple states and recognize recent amendments to the UAA. As states have standardized basic CPE requirements and adopted more uniform standards, licensees must meet the various schedules, reporting requirements, and nuances of each state's requirements. When jurisdictions do not require CPE, licensees must meet Montana CPE requirements.

24.201.2120 STANDARDS FOR FORMAL CONTINUING EDUCATION PROGRAMS, PROGRAMS WHICH QUALIFY, AND ACCEPTABLE SUBJECT

MATTER AND PROGRAMS (1) A program qualifies as acceptable continuing education if it is ~~a formal group, or self-study, blended learning, or nano-learning~~ programs of learning, or technical committee work which contributes directly to the professional ~~licensee's knowledge, ability, and/or competence of an individual licensed to practice public accounting to perform the licensee's professional responsibilities.~~ A program should address the licensee's current and future work environment, current knowledge and skills, and desires or needed knowledge and skills to meet future opportunities and/or professional responsibilities.

(2) No CPE hours shall be permitted for attending or instructing college or university courses considered to be basic or introductory accounting courses or exam preparation/review courses.

(2) remains the same but is renumbered (3).

~~(a) accounting and auditing;~~

(a) technical fields of study, including:

(i) accounting, including governmental accounting;

(ii) auditing, including governmental auditing;

(b) remains the same but is renumbered (iii).

~~(c) (iv) management services;~~

(v) information technology;

~~(d) computer science;~~

~~(e) communication arts;~~

~~(f) (vi) mathematics, statistics, probability, and quantitative application in business;~~

(g) and (h) remain the same but are renumbered (vii) and (viii).

~~(i) (ix) functional fields of business: finance, production, marketing, personnel relations, business management, and organization;~~

~~(j) (x) specialized areas of industry knowledge (e.g., film industry, real estate, farming, etc.); and~~

~~(k) administrative practice (e.g., engagement letters, personnel, etc.);~~

~~(l) consulting services;~~

(m) remains the same but is renumbered (xi).

(b) nontechnical fields of study, including:

(i) computer science;

(ii) communication arts;

(iii) production;

(iv) marketing;

(v) personnel relations;

(vi) business management and organization;

(n) and (o) remain the same but are renumbered (vii) and (viii).

(3) remains the same but is renumbered (4).

(a) remains the same.

(b) technical sessions at meetings of international, national, state, and local accounting organizations and their chapters or a governmental entity that supports professional services or industries that require unique and specific knowledge in accounting or tax compliance;

(c) through (g) remain the same.

(h) firm meetings for staff and/or management groups which are structured as formal educational programs. Portions of such meetings devoted to the communication and application of general professional policy or procedure may qualify. However, portions devoted to firm administrative, financial, and operating matters generally would not qualify.

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, 37-50-314, MCA

REASON: The board is amending this rule to update and reorganize the acceptable CPE subject list by more clearly identifying technical vs. nontechnical subjects. The board intends for the amendments to reflect current practice that all CPE must contribute to licensee competence and that acceptable CPE does not include basic or introductory courses or exam preparation/review courses, which only cover entry level knowledge.

24.201.2124 STANDARDS FOR CPE REPORTING (1) Licensees are responsible for accurately reporting the appropriate number of CPE hours and must retain appropriate documentation of their participation in learning activities.

~~(1) (2) Participants in group, or self-study, nano-learning, or blended learning programs must obtain documentation of their participation (i.e., a certificate of completion or other correspondence from the sponsor) or transcript issued by the program sponsor.~~ All acceptable documentation must include the following information:

(a) through (g) remain the same.

(2) remains the same but is renumbered (3).

~~(3) (4) The sponsor of group, or self-study, nano-learning, or blended learning programs shall retain evidence of an individual's participation in a group or self-study program for not less than five years. Pertinent information includes:~~

(a) through (g) remain the same.

~~(4) (5) Alternative documentation for academic courses~~ Documentation for technical committee sessions must include a written certificate including the following:

~~(a) satisfactory completion of the course and evidence of receipt of academic credit for courses taken for academic credit in universities and colleges; or~~

~~(b) a statement of the hours of attendance signed by the instructor for noncredit courses.~~

(a) the nature of the activity (e.g., topic or specific new competency acquired), the items discussed, and the source/material considered;

(b) the dates of the learning activity; and

(c) the number of CPE credits attributed to the learning activity.

(6) Acceptable evidence for credit of publications is a copy of the publication that names the licensee as author or contributor, a statement from the licensee supporting the number of CPE credits claimed, and the name and contact information of the independent reviewer(s) or publisher.

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, 37-50-314, MCA

REASON: The board is amending this rule to specify the documentation requirements for the various CPE delivery methods. As acceptable types of CPE programs increase, the board concluded that it is more important to identify clearly the required documentation for each type.

24.201.2136 CREDIT HOURS GRANTED - GROUP STUDY PROGRAMS

(1) Group programs and blended learning programs must be a minimum of one hour, but credit may be earned in one-fifth or one-half hour increments after the first full hour credit is earned.

(2) Self-study programs must be a minimum of one-half hour credit initially, but credit may be earned in one-fifth or one-half hour increments after the first one-half hour credit has been earned.

(3) Nano-learning is earned at one-fifth credit hour.

(4) Blended learning program credit hours must equal the sum of the CPE credit determination for the various completed components of the program.

(1) remains the same but is renumbered (5).

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, MCA

REASON: The board determined it is reasonably necessary to amend this rule to identify the increments of CPE awarded for each new delivery method and align with other amendments in this notice. The board is amending the title to accurately reflect the addition of other approved delivery methods.

24.201.2137 CREDIT FOR FORMAL SELF-STUDY AND NANO-LEARNING PROGRAMS

(1) Formal self-study and nano-learning programs shall receive continuing education credit equal to the amount granted by the sponsor, if the sponsor is a recognized by the NASBA National Registry of CPE Sponsors. These Self-study programs are calculated on a 50-minute hour.

(a) All other formal self-study programs receive continuing education credit equal to half of the credit amount granted by the sponsor. Self-study courses that are offered by a sponsor that is not recognized by the NASBA National Registry of CPE Sponsors must be at least 50 minutes to receive credit.

(2) Nano-learning programs offered by a sponsor that is not recognized by the NASBA National Registry of CPE Sponsors will not receive CPE credit.

(2) remains the same but is renumbered (3).

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, MCA

REASON: The board determined it is reasonably necessary to amend this rule to explain how credit will be awarded in each of the new delivery methods. The board concluded this will help licensees better understand the CPE requirements and how to calculate credit for completing courses of varying delivery methods.

24.201.2138 CREDIT FOR SERVICE AS LECTURER, INSTRUCTOR, TECHNICAL REVIEWER, SPEAKER, OR REPORT REVIEWER (1) and (2) remain the same.

(3) Technical reviewers of qualified CPE programs may receive CPE credit for the actual review time up to the actual number of CPE hours for the learning activity. Not more than 50 percent (60 hours) of the total CPE hours required for the reporting period can be claimed for technical review of CPE courses.

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, 37-50-314, MCA

REASON: The board is amending this rule and its title to clarify calculation of credit for technical reviewers as a new CPE delivery type, and identify any limit of CPE credit for that delivery method.

24.201.2139 CREDIT FOR PUBLISHED ARTICLES, BOOKS, ETC.

(1) Credit may be claimed for published articles, and books, and other publications provided they contribute to the relevant to maintaining professional competence of the individual. Credit for preparation of such publications may be claimed on a self-declaration basis, not to exceed 25 percent (or 30 hours) of the basic requirement, unless exceptional circumstances justify greater credit. The final amount of credit awarded will be determined by the board on a case-by-case basis.

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to allow CPE credit for publications other than articles and books as long as they assist the author in maintaining professional competence to practice public accounting.

24.201.2410 ENFORCEMENT AGAINST LICENSE HOLDERS AND PRACTICE PRIVILEGE HOLDERS (1) through (1)(j) remain the same.

(k) failure of any individual using the practice privilege in Montana to notify this board of any suspension, revocation, termination, or discipline of the license in any jurisdiction in which the individual practices; or

(l) failure of a Montana licensee who is using the practice privilege in another jurisdiction to cooperate with another jurisdiction's board of accountancy's investigation into acts of the licensee in that other jurisdiction; or

(m) failure of a licensee or practice privilege holder to comply with board rules of professional conduct, and the AICPA Code of Professional Conduct effective December 15, 2014.

(i) The board adopts and incorporates by reference the AICPA Code of Professional Conduct, effective December 15, 2014, which sets forth the principles, rules, and interpretations in the performance of professional responsibilities. A copy of the AICPA Code of Professional Conduct may be obtained from the Board of Public Accountants, 301 S. Park Ave., Helena, MT 59601.

AUTH: 37-1-131, 37-1-136, 37-1-319, 37-50-203, MCA
IMP: 37-1-136, 37-1-316, 37-1-319, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to adopt the AICPA Code of Professional Conduct, which is widely accepted in the profession as the primary standard of conduct. The board is adopting this code to add uniformity to the practice by eliminating variations in the professional conduct standard created through various and differing state-specific rules. Implementing such a standardized conduct code will reduce the likelihood that licensees practicing in multiple jurisdictions will inadvertently violate a state-specific rule. The adoption of the AICPA Code of Professional Conduct is a recommendation in the UAA.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

5. The proposed new rule is as follows:

NEW RULE I CREDIT FOR BLENDED LEARNING (1) Any pre-program, post-program, and/or homework assignments must relate to the defined learning objectives of the program.

(2) Course sponsors must provide clear instruction and information that summarize the components of the program and what must be completed or achieved during each component in order to qualify for CPE hours.

(3) Pre-program, post-program, and homework assignments cannot constitute more than 25 percent of the total CPE hours for that class.

(4) The primary component must incorporate an assessment in which the participant demonstrates achievement of the learning objectives of the program.

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA
IMP: 37-1-306, 37-50-203, MCA

REASON: The board determined it is reasonable to adopt NEW RULE I to set forth the requirements and limitations of the blended learning CPE delivery method. Blended learning is a combination of two or more learning formats. As a result, limitations placed on asynchronous delivery methods are limited to a percent of the total CPE hours.

6. The board proposes to repeal the following rules:

24.201.704 INDEPENDENCE

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board is repealing the state-specific professional conduct rules (ARM 24.201.704 through 24.201.710, 24.201.718, 24.201.720, and 24.201.726) as they are adequately covered in the AICPA Code of Professional Conduct being

adopted in ARM 24.201.2410. The board concluded that the records section of the AICPA does not offer the necessary protections to Montana consumers and is retaining ARM 24.201.723.

24.201.705 INTEGRITY AND OBJECTIVITY

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-1-131, 37-50-203, 37-50-325, MCA

24.201.706 COMPETENCE

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-1-131, 37-50-203, 37-50-325, MCA

24.201.707 DISCREDITABLE ACTS

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-1-131, 37-50-203, 37-50-325, MCA

24.201.708 DUE PROFESSIONAL CARE

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-1-131, 37-50-203, 37-50-325, MCA

24.201.709 COMMISSIONS

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-1-131, 37-50-203, 37-50-325, MCA

24.201.710 CONTINGENT FEES

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-1-131, 37-50-203, 37-50-325, MCA

24.201.718 APPLICABLE STANDARDS

AUTH: 37-50-203, MCA
IMP: 2-4-307, 37-50-203, 37-50-325, MCA

24.201.720 CONFIDENTIALITY

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-1-131, 37-50-203, 37-50-325, MCA

24.201.726 ADVERTISING

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

7. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdpac@mt.gov, and must be received no later than 5:00 p.m., August 18, 2017.

8. An electronic copy of this notice of public hearing is available at publicaccountant.mt.gov (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

9. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. 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 that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdpac@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

11. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.201.2101, 24.201.2106, 24.201.2120, 24.201.2124, 24.201.2136, 24.201.2137, 24.201.2138, and 24.201.2139 will significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.201.301, 24.201.535, 24.201.537, and 24.201.2410 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of NEW RULE I will significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.201.704, 24.201.705, 24.201.706, 24.201.707, 24.201.708, 24.201.709, 24.201.710, 24.201.718, 24.201.720, and 24.201.726 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2244; facsimile (406) 841-2305; or to dlibsdpac@mt.gov.

12. Grace Berger, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF PUBLIC ACCOUNTANTS
DAN VUCKOVICH, CPA
PRESIDING OFFICER

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State July 10, 2017.

BEFORE THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the amendment)	NOTICE OF PUBLIC HEARING
of ARM 32.3.212 additional)	
requirements for cattle,)	
32.3.212B importation of cattle)	
from Mexico, 32.4.201)	
identification of alternative)	
livestock with the exclusion of)	
omnivores and carnivores, and)	
32.4.1302 requirements for)	
mandatory surveillance of)	
Montana alternative livestock)	
farm cervidae for chronic wasting)	
disease)	

TO: All Concerned Persons

1. On July 7, 2017, the Department of Livestock published MAR Notice No. 32-17-285 pertaining to the proposed amendment of the above-stated rules at page 1001 of the 2017 Montana Administrative Register, Issue Number 13.

2. The notice of proposed agency action is amended as follows because the appropriate required number of persons has requested a public hearing.

3. On August 16, 2017, at 1:00 p.m., the Department of Livestock will hold a public hearing at the Billings Livestock Commission, 2443 Frontage Road, at Billings, Montana, to consider the proposed amendment of the above-stated rules.

4. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Livestock no later than 5:00 p.m. on August 9, 2017, to advise us of the nature of the accommodation that you need. Please contact the Department of Livestock, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9321; TTD number: 1 (800) 253-4091; fax: (406) 444-1929; e-mail: MDOLcomments@mt.gov.

5. Concerned persons may submit their data, views, or arguments in writing concerning the proposed action to the Executive Officer, Department of Livestock, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001, by faxing to (406) 444-1929, or by e-mailing to MDOLcomments@mt.gov to be received no later than 5:00 p.m., August 18, 2017.

6. Tahnee Szymanski, DVM, Department of Livestock, has been designated to preside over and conduct this hearing.

7. 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 4 above or may be made by completing a request form at any rules hearing held by the department.

BY: /s/ Michael S. Honeycutt
Michael S. Honeycutt
Board of Livestock
Department of Livestock

BY: /s/ Cinda Young-Eichenfels
Cinda Young-Eichenfels
Rule Reviewer

Certified to the Secretary of State July 10, 2017.

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

In the matter of the amendment of)
ARM 37.86.3401, 37.86.3402,)
37.86.3405, 37.86.3410, 37.86.3415,)
37.86.3901, 37.86.3902, 37.86.3905,)
37.86.3906, and 37.86.3910 and the)
repeal of ARM 37.86.3411,)
37.86.3801, 37.86.3805, 37.86.3806,)
37.86.3810, and 37.86.3811)
pertaining to targeted case)
management)

TO: All Concerned Persons

1. On August 10, 2017, at 3:30 p.m., the Department of Public Health and Human Services will hold a public hearing in Room 207 of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

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 July 26, 2017, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, 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 dphhslegal@mt.gov.

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

37.86.3401 TARGETED CASE MANAGEMENT SERVICES FOR HIGH RISK PREGNANT WOMEN, DEFINITIONS The definitions of targeted case management services for high risk pregnant women are as follows:

~~(1) "Assessment" means an evaluation to identify a client's physical, medical, nutritional, psychosocial, developmental, and educational status to determine if the person meets the "high risk" criteria. This is an ongoing process updated at each contact.~~

~~(2) "Care coordination and referral" means helping a client to access services by establishing and maintaining a referral process for needed and appropriate services and avoiding duplication of services.~~

~~(3) (1) "Case planning" "Care plan" means preparing a written service plan that reflects a client's needs and the resources available to meet those needs in a~~

~~coordinated and integrated fashion.~~ a specific written plan that is based on the information collected through the comprehensive assessment and periodic reassessment that:

- (a) specifies the goals and actions to address the medical, social, educational, and other services needed by the member;
- (b) includes activities such as ensuring the active participation of the member, and working with the member and others to develop those goals; and
- (c) identifies a course of action to respond to the assessed needs of the member.

(2) "Comprehensive Assessment and Periodic Reassessment" means an evaluation to identify a member's need for any medical, educational, social, or other services. These assessment activities include:

- (a) taking a member's history;
- (b) identifying the member's needs and completing the related documentation; and
- (c) gathering information from other sources to form a complete assessment of the member.

~~(4)~~ (3) "Monitoring and follow-up activity" means regular contacts to encourage cooperation and resolve problems which may create barriers to services and assuring that a client receives services as indicated in the service plan. activities and contacts that are necessary to ensure the care plan is implemented and adequately addresses the member's needs. The activities may be with the member, family members, service providers, or other entities or individuals and may be conducted as frequently as necessary. Monitoring may be furnished through face-to-face visits, telephone calls, and telemedicine services.

(4) "Paraprofessional" means a person to whom a particular aspect of a professional task is delegated but who is not licensed to practice as a fully qualified professional.

(5) "Referral" means activities that help link the member with medical, social, or educational providers, and other programs and services that are capable of providing needed services to address identified needs and achieve goals specified in the care plan.

(6) "Targeted case management" means services that assist a member to access needed medical, social, or other resources and services by establishing and maintaining a referral process for needed and appropriate services and avoiding duplication of services.

AUTH: 53-6-113, MCA
IMP: 53-6-101, MCA

37.86.3402 TARGETED CASE MANAGEMENT SERVICES FOR HIGH RISK PREGNANT WOMEN, ELIGIBILITY (1) ~~A person~~ member is eligible for targeted case management as a high risk pregnant woman if:

- (a) remains the same.
 - (b) the ~~person's~~ member's pregnancy outcome is considered ~~to be~~ at high risk ~~as determined by the case manager.~~
- (2) A pregnancy is of high risk if the ~~person~~ member:

- (a) and (b) remain the same.
- ~~(c) abuses alcohol, tobacco, or drugs;~~
- ~~(e) (d) or has someone in the person's member's immediate environment who abuses alcohol, tobacco, or drugs;~~
- (d) remains the same, but is renumbered (e).
- ~~(e) (f) is homeless; or~~
- ~~(g) has had greater than three residences during pregnancy; or~~
- ~~(f) (h) demonstrates an inability to obtain necessary resources and services and the person member meets three of the following criteria. The person:~~
 - (i) has a history of physical or sexual abuse;
 - (ii) has no support system or involvement of a spouse or other supporting person;
 - (iii) ~~has two or more children under age five~~ has not had a dental cleaning in the last year;
 - (iv) is not educated beyond the 12th grade level or does not have a GED;
 - (v) and (vi) remain the same.
 - (vii) is a refugee or a migrant worker;
 - (viii) is age 18 or 19; ~~or~~
 - ~~(ix) is over the age of 35; or~~
 - (ix) remains the same, but is renumbered (x).
- ~~(3) The member is not eligible for targeted case management services if enrolled in a Medicaid Patient Centered Medical Home (PCMH) program, Comprehensive Primary Care Plus (CPC+), or Health Improvement Program (HIP).~~
- ~~(3) (4) Targeted Case management services may be delivered to the client member, if Medicaid eligibility continues, until the last day of the month in which occurs the 60th day following the end of the pregnancy.~~

AUTH: 53-6-113, MCA
IMP: 53-6-101, MCA

37.86.3405 TARGETED CASE MANAGEMENT SERVICES FOR HIGH RISK PREGNANT WOMEN, COVERAGE (1) Reimbursable targeted case management services for high risk pregnant women are:

- (a) comprehensive assessment and periodic reassessment;
- (b) case care plan development;
- (c) remains the same.
- (d) monitoring and follow up.
- (2) Face-to-face comprehensive assessments must occur at least monthly during the pregnancy.
- (3) Two post-partum reassessments must occur after delivery prior to the last day of the month in which the 60th day following delivery occurs.
- (4) Monitoring must include at least one annual monitoring to determine if the following conditions are met:
 - (a) services are being furnished in accordance with the member's care plan;
 - (b) services in the care plan are adequate; and
 - (c) changes in the needs or status of the member are reflected in the care plan.

AUTH: 53-6-113, MCA
IMP: 53-6-101, MCA

37.86.3410 TARGETED CASE MANAGEMENT SERVICES FOR HIGH RISK PREGNANT WOMEN, PROVIDER REQUIREMENTS (1) remains the same.

(2) To be qualified as a provider of targeted case management services for high risk pregnant women, an ~~entity~~ enrolled Montana Medicaid provider must:

(a) remains the same.

(b) meet the requirements in (3) through ~~(7)~~ (8);

(c) have knowledge and experience in the delivery of home and community services to high risk pregnant women;

(d) remains the same.

(e) have developed collaborative working relationships with health care and other agencies in the area to be served.

(3) A targeted case management provider must use an interdisciplinary team that includes members from the professions of nursing, social work, and nutrition.

(a) The professional requirements for ~~these professionals~~ are the following:

(i) nursing must be provided by a ~~licensed registered professional nurse~~ who has a current Montana license and is either:

(A) a registered nurse ~~with a bachelor of science degree in nursing, including whose education includes~~ course work in public health; or

(B) a certified nurse practitioner ~~with two years experience in the care of families;~~

~~(ii) social work must be provided by a social worker with a masters or bachelors degree in behavioral sciences or related field with one year experience in community social services or public health. A social worker with a masters in social work (MSW), masters in counseling, or a bachelors in social work (BSW) with two years experience in community social services or public health is preferred; and~~

(ii) social work must be provided by one of the following:

(A) a clinical social worker with a master's in social work (MSW), who has a current Montana license;

(B) a master's level counselor (LCPC), who has a current Montana license;

or

(C) a bachelor's in social work (BSW) with two years' experience in community social services or public health; and

(iii) remains the same.

(b) The department must be notified within 30 days regarding any staff changes or updates.

~~(b) (c)~~ (c) To accommodate special agency and geographic needs and circumstances, exceptions to the staffing requirements, including the use of paraprofessionals, may be allowed if approved by the department. If the targeted case management team includes a paraprofessional, that individual must have a minimum of an associate's degree in behavioral sciences or a related field with two years of closely related work experience, and complete a state-sponsored training for paraprofessional targeted case managers. Qualifying experience may be substituted, year for year, for education.

(4) The targeted case management provider must be able to provide the services of at least one of the professional disciplines listed in (3) directly. The other disciplines may be provided through subcontracts.

~~(5)~~ Where services are provided through a subcontractor, the subcontract must be submitted to the department or designee for review and approval.

~~(6)~~ (5) A targeted case management provider must:

(a) remains the same.

(b) deliver prenatal care coordination services appropriate to the individual ~~client's~~ member's level of need;

(c) respond promptly to requests and referrals for targeted case management ~~clients~~ members;

(d) remains the same.

(e) schedule services to accommodate the ~~client's~~ member's situation;

(f) inform ~~clients~~ members regarding whom and when to call for pregnancy emergencies;

(g) remains the same.

(h) assure that ongoing communication and coordination of ~~client~~ member care occurs within the targeted case management team and with the ~~client's~~ member's medical prenatal care provider;

(i) provide services in a home, ~~setting in addition to office, or clinic settings,~~ with telephone contacts as appropriate; Home visiting, particularly by the community health nurse, is an integral part of targeted case management;

(j) have a system for handling ~~client~~ member grievances; and

(k) maintain an adequate and confidential ~~client~~ records system. All services provided directly or through a subcontractor must be documented in this system.

~~(7)~~ (6) A case manager providing services for a targeted case management provider must have knowledge of:

~~(a)~~ knowledge of:

~~(i)~~ (a) federal, state, and local programs for children and pregnant women such as Title V programs, WIC, immunizations, perinatal health care, ~~handicapped children's services,~~ family planning, genetic services, hepatitis B screening, kids count (EPSDT), ~~etc. and other healthcare related programs in Montana;~~

~~(ii)~~ (b) individual health care plan development and evaluation;

~~(iii)~~ (c) community health care systems and resources; and

~~(iv)~~ (d) nationally recognized perinatal and child health care standards; ~~;~~

~~(b)~~ (7) A case manager providing services for a targeted case management provider must have the ability to:

~~(i)~~ interpret medical findings;

~~(ii)~~ (a) develop an individual ~~case management~~ care plan based on an assessment of a ~~client's~~ member's health, nutritional and psychosocial status, and personal and community resources;

~~(iii)~~ (b) inform a ~~client~~ member regarding health conditions and implications of risk factors;

~~(iv)~~ (c) encourage a ~~client's~~ member's responsibility for health care;

(v) remains the same, but is renumbered (d).

~~(vi)~~ (e) coordinate access to multiple agency services to the benefit of the ~~client~~ member; and

~~(vii)~~ (f) evaluate a client's member's progress in obtaining appropriate medical care and other needed services.

(8) Providers must maintain case records that meet the maintenance of records and auditing guidelines set forth in ARM 37.85.414 and that document for all members receiving targeted case management the following:

- (a) the name of the member;
- (b) the dates of the targeted case management services;
- (c) the name of the provider agency and the person providing the services;
- (d) the nature, content, and units of the targeted case management services received and whether goals specified in the care plan have been achieved;
- (e) whether the member has declined services in the care plan;
- (f) the need for, occurrences of, and coordination with other targeted case managers;
- (g) a timeline for obtaining needed services; and
- (h) a timeline for reevaluation of the plan.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

37.86.3415 TARGETED CASE MANAGEMENT SERVICES FOR HIGH RISK PREGNANT WOMEN, REIMBURSEMENT (1) Case Targeted case management services for high risk pregnant women provided on or after January 1, 1996 are reimbursed at the lower of the following:

- (a) the provider's customary charge to the general public for the service; or
- (b) \$6.00 for each 15 minutes of service the department's current fee schedule under ARM 37.85.105.

~~(2) Case management services for high risk pregnant women provided prior to January 1, 1996 are reimbursed, in accordance with (2)(a) through (2)(d), for the allowable costs of providing case management services to eligible Medicaid recipients.~~

~~(a) The amount of reimbursement due a provider will be determined retrospectively by the department based upon the reporting period cost report required under ARM 37.86.3411. An overpayment or underpayment for the reporting period is calculated by finding the difference between the total of the incurred allowable costs reported and the total of the interim payments received by the provider. The department will notify the provider in writing of any overpayment or underpayment determination.~~

~~(b) The department will establish interim rates for each service. An interim rate will be determined for a fiscal year by dividing the estimated total allowable costs on a statewide basis for the service during the fiscal year by estimated total of service units to be delivered on a statewide basis during that fiscal year.~~

~~(i) The department may, but is not required to, review and adjust the interim rates established during the reporting period to assure that interim payments approximate allowable costs for case management services if:~~

~~(A) there is a significant change in the utilization of case management services;~~

~~(B) the incurred allowable costs vary materially from the estimated allowable costs; or~~

~~(C) the department in its discretion determines that other circumstances warrant an adjustment.~~

~~(c) No cost shall be allowable unless the department determines that it has been incurred and that it is reasonable and necessarily related to the provision of case management services. Profit is not an allowable cost.~~

~~(d) Reimbursement shall not exceed the provider's customary charge to the general public for the service.~~

(2) The following activities may not be billed as targeted case management and are not reimbursable as a unit of targeted case management:

(a) outreach to the member or member's representative;

(b) application activities related to Medicaid services or eligibility;

(c) direct medical services, including counseling or the transportation or escort of members;

(d) duplicate payments that are made to providers under Medicaid or other program authorities;

(e) writing, recording, or entering case notes for the member's files;

(f) travel to and from member activities;

(g) coordination of the investigation of any suspected abuse, neglect, or exploitation cases; and

(h) any service less than eight minutes duration if it is the only service provided that day.

(3) Targeted case management services are not separately billable for members enrolled in a Medicaid Patient Centered Medical Home (PCMH) program, Comprehensive Primary Care Plus (CPC+), or Health Improvement Program.

(4) All targeted case management services must meet the guidelines of medical necessity set forth in ARM 37.85.410.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

37.86.3901 TARGETED CASE MANAGEMENT SERVICES FOR CHILDREN AND YOUTH WITH SPECIAL HEALTH CARE NEEDS, DEFINITIONS

The definitions of targeted case management services for children and youth with special health care needs are as follows:

~~(1) "Assessment" means an evaluation of a child's physical, medical, nutritional, psychological, social, developmental, and educational status in the context of the child's caretakers to determine if the child meets the "at risk" criteria stated in ARM 37.86.3902 or if the child has diagnosed special health care needs, and to document the child's needs for resources and services.~~

~~(2) (1) "Case Care plan" means a specific written, individualized, family-centered, culturally competent and coordinated case management service plan reflecting a child's needs and strengths. The plan provides goals of intervention, objectives, activities in context of the child's caregivers, and the resources and services available to meet the child's needs in a coordinated and integrated fashion.~~

plan that is based on the information collected through the comprehensive assessment and periodic reassessment process that:

(a) specifies the goals and actions to address the medical, social, educational, and other services needed by the child;

(b) includes activities such as ensuring the active participation of the child and child's caregiver and working with the child and others to develop those goals; and

(c) identifies a course of action to respond to the assessed needs of the child.

~~(3) "Care coordination and referral" means assisting a child and child's caregivers to access resources and services, including children's special health services, specialty clinics, other needed services, and to establish and maintain eligibility for services other than medicaid. For those children for whom the developmental disabilities family education and support services program (DDFESS) retains lead status, care coordination activities are determined at the community level.~~

(2) "Comprehensive assessment and periodic reassessment" means an evaluation to identify a child's need for any medical, educational, social, or other services. These assessment activities include:

(a) taking a child's history;

(b) identifying the child's needs and completing the related documentation;

and

(c) gathering information from other sources to form a complete assessment of the child.

~~(4) "Developmental disabilities family education and support services (DDFESS)" means the developmental disabilities family education and support services program comprised of the federally authorized and funded Part H services, state-funded family education and support services.~~

~~(5) (3) "Monitoring and follow-up activity" means regular contacts through ongoing home visitation and other means to assure appropriateness of services provided to the child and the child's caregivers, to identify and address concerns which may create barriers to services, and to assure the receipt of services as indicated in the case plan. Health and medical services for children served by DDFESS may be monitored by the children with special health care needs. Program monitoring functions include:~~

~~(a) utilizing information obtained from assessments of the child/family's needs and status; and~~

~~(b) modifying the case management service plan as needed in coordination with all involved providers in order to promote positive outcomes for a child and the child's caregivers. activities and contacts that are necessary to ensure the care plan is implemented and adequately addresses the child's needs. The activities may be with the child, family members, service providers, or other entities or individuals and may be conducted as frequently as necessary. Monitoring may be furnished through face-to-face visits, telephone calls, and telemedicine services.~~

(4) "Paraprofessional" means a person to whom a particular aspect of a professional task is delegated but who is not licensed to practice as a fully qualified professional.

(5) "Referral" means activities that help link the child or child's caregiver with medical, social, or educational providers, and other programs and services that are capable of providing needed services to address identified needs and achieve goals specified in the care plan.

(6) "Targeted case management" means services that assist a child and a child's caregivers to access needed medical, social, or other resources and services by establishing and maintaining a referral process for needed and appropriate services and avoiding duplication of services.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

37.86.3902 TARGETED CASE MANAGEMENT SERVICES FOR CHILDREN AND YOUTH WITH SPECIAL HEALTH CARE NEEDS, ELIGIBILITY

(1) A child is eligible for targeted case management services for children and youth with special health care needs if:

(a) the child is receiving Medicaid or is presumptively eligible for Medicaid;

~~(a)~~ (b) the child:

(i) through (iii) remain the same.

~~(b)~~ (c) the child is born to a woman who received targeted case management services as a high risk pregnant woman.

~~(2) For a child who is eligible for developmental disabilities Part H services or for developmental disabilities family and educational support general fund services and who is eligible for children with special health care needs case management, the developmental disabilities services program provides lead case management. For a child with case management services from both the developmental disabilities program and the children's special health care needs program, the case management services provided by children with special health care needs case management providers are limited to the coordination of health and medical activities only. Children with special health care needs case management providers must incorporate the health and medical care plan within the individual family service plan and provide services in accordance with ARM 37.34.601, 37.34.602, 37.34.604, 37.34.605, 37.34.609, 37.34.612 through 37.34.616, 37.34.621, 37.34.622, 37.34.2101, 37.34.2102, 37.34.2106, 37.34.2107, 37.34.2111 and 37.34.2112. Under these circumstances, children with special health care needs case management providers may bill medicaid for health and medical case management activities only.~~

(2) The member is not eligible for targeted case management services if enrolled in a Medicaid Patient Centered Medical Home (PCMH) program, Comprehensive Primary Care Plus (CPC+), or Health Improvement Program (HIP).

(3) Initial assessment of children covered by these special health care needs targeted case management services may occur in the hospital following the infant's birth. This assessment must be followed by a referral to appropriate service providers in the community. Assessments by all professionals will be accepted, shared, and integrated into planning for all children covered by these services.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

37.86.3905 TARGETED CASE MANAGEMENT SERVICES FOR CHILDREN AND YOUTH WITH SPECIAL HEALTH CARE NEEDS, COVERAGE

(1) The following services are reimbursable targeted case management services for children and youth with special health care needs:

- (a) comprehensive assessment and periodic reassessment;
- (b) case planning care plan development;
- (c) care coordination and referral for other services; and
- (d) monitoring and follow up.

(2) Monitoring must be at least once annually to determine if the following conditions are being met:

- (a) services are being furnished in accordance with the child's care plan;
- (b) services in the care plan are adequate; and
- (c) changes in the needs or status of the child are reflected in the care plan.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

37.86.3906 TARGETED CASE MANAGEMENT SERVICES FOR CHILDREN AND YOUTH WITH SPECIAL HEALTH CARE NEEDS, PROVIDER REQUIREMENTS (1) remains the same.

(2) To be qualified as a provider of targeted case management services for children and youth with special health care needs, an entity enrolled Montana Medicaid provider must:

- (a) ~~be a provider of public health nursing or social work services;~~
- (b) ~~be approved by the department's health policy and services division;~~
- (c) ~~have knowledge and experience in the delivery of home and community services to children with special health care needs;~~
- (d) ~~demonstrate an understanding of service coordination for young children up to 18 years of age;~~
- (e) ~~have developed collaborative working relationships with health care and other providers in the area to be served;~~
- (f) ~~have access to multi-disciplinary providers; and~~
- (g) ~~have on file with the department's health policy and services division, a signed collaborative agreement with community providers of services for children with special health care needs that includes at a minimum:~~
 - (i) ~~public health nursing;~~
 - (ii) ~~social work;~~
 - (iii) ~~nutrition;~~
 - (iv) ~~primary care providers;~~
 - (v) ~~subspecialty providers;~~
 - (vi) ~~dental providers;~~
 - (vii) ~~Part H early intervention providers;~~
 - (viii) ~~paraprofessional home visitor program; and~~
 - (ix) ~~others deemed appropriate by the contractor.~~
- (a) be approved by the department;

- (b) meet the requirements in (3) through (8);
- (c) have knowledge and experience in the delivery of home and community services to children and youth with special health care needs;
- (d) demonstrate an understanding of service coordination for children up to 18 years of age; and
- (e) have developed collaborative working relationships with health care and other providers in the area to be served.
- ~~(3) Requirements for professional public health providers include:~~
 - ~~(a) for a registered nurse: a minimum of a bachelor's degree in nursing including course work in public health; and~~
 - ~~(b) for a social worker: a master's or bachelor's degree in behavioral sciences or related field with one year experience in community social services or public health.~~
- (3) A targeted case management provider must use an interdisciplinary team that includes members from the professions of nursing, social work, and nutrition.
 - (a) The professional requirements are the following:
 - (i) nursing must be provided by a registered nurse, who has a current Montana license and is either:
 - (A) a registered nurse whose education includes course work in public health; or
 - (B) a certified nurse practitioner;
 - (ii) social work must be provided by one of the following:
 - (A) clinical social worker with a master's in social work (MSW), who has a current Montana license;
 - (B) master's level counselor (LCPC), who has a current Montana license; or
 - (C) bachelor's in social work (BSW) with two years' experience in community social services or public health; and
 - (iii) nutrition services must be provided by a registered dietitian who is licensed as a nutritionist in Montana and has one-year experience in public health or maternal-child health.
 - (b) The department must be notified within 30 days regarding any staff changes or updates.
 - (c) To accommodate special agency and geographic needs and circumstances, exceptions to the staffing requirements, including the use of paraprofessionals, may be allowed if approved by the department. If the targeted case management team includes a paraprofessional, that individual must have a minimum of an associate's degree in behavioral sciences or a related field with two years of closely related work experience, and complete a state-sponsored training for paraprofessional targeted case managers. Qualifying experience may be substituted, year for year, for education.
- (4) The targeted case management provider must be able to directly provide services of at least one of the professional disciplines listed in (3) of this rule. The other disciplines may be provided through subcontracts. Where services are provided through a subcontractor, the subcontract must be submitted to the department or designee for review and approval.
- (5) A targeted case management provider must:

(a) conduct activities to inform the target population and health care and social service providers in the geographic area to be served of its services for youth and children with special health care needs;

~~(a)~~ (b) deliver care coordination targeted case management services appropriate to the child and caregiver's level of need;

~~(b)~~ through ~~(e)~~ remain the same, but are renumbered ~~(c)~~ through ~~(f)~~.

(g) establish working relationships with medical providers, community agencies, and other appropriate organizations;

~~(f)~~ (h) assure ongoing communication and coordination of the child's care occurs within the targeted case management team and among the child's care providers;

~~(g)~~ (i) provide services primarily in the a home, setting and additionally in office, or clinic settings with telephone contacts as appropriate.; Home visiting, particularly by the public health nurse, is an integral part of targeted case management for children with special health care needs. To accommodate unusual circumstances or the safety of home visitors, exceptions to home visiting as the primary location of service delivery may be allowed and should be documented in the child's case record;

~~(h)~~ remains the same, but is renumbered ~~(j)~~.

~~(i)~~ (k) maintain an adequate and confidential client record system. All services provided must be documented in this system.

(6) A targeted case manager must have knowledge of:

~~(a)~~ federal, state and local programs for children and youth such as WIC, immunizations, ~~perinatal health care~~, children's special health care needs services, family planning, genetic services, hepatitis B screening, EPSDT, Montana Milestones (Part C Early Interventions), DDFESS, and other health care related programs in Montana;

~~(b)~~ and ~~(c)~~ remain the same.

~~(d)~~ nationally recognized early childhood health care and well child health supervision standards.

(7) A targeted case manager must have the ability to:

~~(a)~~ interpret medical findings;

~~(b)~~ (a) develop or participate in the development of an individual case management care plan based on assessment of a child's health, nutritional and psychosocial status, and personal and community resources;

~~(c)~~ through ~~(f)~~ remain the same, but are renumbered ~~(b)~~ through ~~(e)~~.

~~(g)~~ (f) evaluate a child's and the child's caregiver's success progress in obtaining appropriate medical care and other needed services.

(8) Providers must maintain case records that meet the maintenance of records and auditing guidelines set forth in ARM 37.85.414 and that document, for all members receiving targeted case management, the following:

(a) the name of the member;

(b) the dates of the targeted case management services;

(c) the name of the provider agency and the person providing the services;

(d) the nature, content, and units of the targeted case management services received, and whether goals specified in the care plan have been achieved;

(e) whether the member has declined services in the care plan;

(f) the need for, and occurrences of, coordination with other targeted case managers;

(g) a timeline for obtaining needed services; and

(h) a timeline for reevaluation of the plan.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

37.86.3910 TARGETED CASE MANAGEMENT SERVICES FOR CHILDREN AND YOUTH WITH SPECIAL HEALTH CARE NEEDS, REIMBURSEMENT (1) Case Targeted case management services for children and youth with special health care needs are reimbursed at the lower of the following:

(a) remains the same.

(b) \$10.00 for each 15 minutes of service the department's current fee schedule under ARM 37.85.105.

~~(2) No cost shall be allowable unless the department determines that it has been incurred and that it is reasonable and necessarily related to the provision of case management services. Profit is not an allowable cost.~~

(2) The following activities may not be billed as targeted case management and are not reimbursable as a unit of targeted case management:

(a) outreach to the child or child's caregiver(s);

(b) application activities related to Medicaid services or eligibility;

(c) direct medical services, including counseling or the transportation or escort of members;

(d) duplicate payments that are made to providers under Medicaid or other program authorities;

(e) writing, recording, or entering case notes for the member's files;

(f) travel to and from member activities;

(g) coordination of the investigation of any suspected abuse, neglect, or exploitation cases; and

(h) any service less than eight minutes duration if it is the only service provided that day.

(3) Targeted case management services are not separately billable for members enrolled in a Medicaid Patient Centered Medical Home (PCMH) program, Comprehensive Primary Care Plus (CPC+), or Health Improvement Program.

(4) All targeted case management services must meet the guidelines of medical necessity set forth in ARM 37.85.410.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

4. The department proposes to repeal the following rules:

37.86.3411 CASE MANAGEMENT SERVICES FOR HIGH RISK PREGNANT WOMEN, FINANCIAL RECORDS, AND REPORTING found on page 37-20604 of the Administrative Rules of Montana.

AUTH: 53-6-113, MCA

IMP: 2-4-201, 53-2-201, 53-2-606, 53-6-101, 53-6-111, 53-6-113, MCA

37.86.3801 CASE MANAGEMENT SERVICES FOR CHILDREN AT RISK OF ABUSE AND NEGLECT, DEFINITIONS found on page 37-20745 of the Administrative Rules of Montana.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

37.86.3805 CASE MANAGEMENT SERVICES FOR CHILDREN AT RISK OF ABUSE AND NEGLECT, COVERAGE found on page 37-20749 of the Administrative Rules of Montana.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

37.86.3806 MEDICAID REIMBURSED CASE MANAGEMENT SERVICES FOR CHILDREN AT RISK OF ABUSE AND NEGLECT, ELIGIBILITY found on page 37-20749 of the Administrative Rules of Montana.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

37.86.3810 MEDICAID REIMBURSED CASE MANAGEMENT SERVICES FOR CHILDREN AT RISK OF ABUSE AND NEGLECT, PROVIDER REQUIREMENTS found on page 37-20755 of the Administrative Rules of Montana.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

37.86.3811 MEDICAID REIMBURSED CASE MANAGEMENT SERVICES FOR CHILDREN AT RISK OF ABUSE AND NEGLECT, REIMBURSEMENT found on page 37-20756 of the Administrative Rules of Montana.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

5. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.86.3401, 37.86.3402, 37.86.3405, 37.86.3410, 37.86.3415, 37.86.3901, 37.86.3902, 37.86.3905, 37.86.3906, and 37.86.3910 and repeal ARM 37.86.3411, 37.86.3801, 37.86.3805, 37.86.3806, 37.86.3810, and 37.86.3811 regarding targeted case management.

In November 2015, the Centers for Medicare and Medicaid Services (CMS) approved an update to the high-risk pregnancy and children and youth with special health care needs state plan in November of 2015. The state plan amendment updated the definitions pertaining to targeted case management and the services required by the provider. The proposed rule updates are to match the state plan agreement and to specify eligible individuals and allowed services.

All of the following rules were updated to change the word "client" to "member."

Targeted Case Management for High-Risk Pregnant Women

The following describes proposed rule amendments to the following rules pertaining to high-risk pregnant women targeted case management:

The title of all of the below rules were updated to be targeted case management for high-risk pregnant women.

ARM 37.86.3401

Update the definitions to match the new definitions in the state plan agreement that was approved by CMS.

ARM 37.86.3402

Update the list of members eligible for high-risk pregnancy targeted case management to match the requirements listed in the CMS-approved state plan.

ARM 37.86.3405

Update the reimbursable services to match the services within the CMS-approved state plan.

ARM 37.86.3410

Update the provider requirements to match the state plan and specify the requirements for the interdisciplinary team.

ARM 37.86.3411

Repeal this entire rule as financial records and reporting requirements for Medicaid providers is adequately covered in ARM 37.85.414.

ARM 37.86.3415

Remove information regarding the reimbursement methodology prior to 1996, and remove the specific rate of reimbursement as this is now done through ARM

37.85.105. Add information regarding nonreimbursable services to match the services within the state plan.

Fiscal Impact

There is no fiscal impact to the above rule amendments.

Children and Youth with Special Health Care Needs Targeted Case Management

The following describes proposed rule amendments to the following rules pertaining to children and youth with special health care needs targeted case management:

The titles of all the below rules were updated to state targeted case management for children and youth with special health care needs.

ARM 37.86.3901

Update the definitions to match the new definitions within the CMS-approved state plan agreement.

ARM 37.86.3902

Update the list of members eligible for children and youth with special health care needs targeted case management to match the requirements listed in the state plan and to add clarification for providers.

ARM 37.86.3905

Specify and amend the covered targeted case management services to match the state plan.

ARM 37.86.3906

Update the provider requirements to match the state plan and specify the requirements for the interdisciplinary team.

ARM 37.86.3910

Remove the specific rate of reimbursement as this is now done through ARM 37.85.105. Add information regarding nonreimbursable activities to match the state plan.

Fiscal Impact

There is no fiscal impact to the above rule amendments.

ARM 37.86.3801, 37.86.3805, 37.86.3806, 37.86.3810, and 37.86.3811

These rules are all proposed to be repealed as this program no longer exists.

Fiscal Impact

There is no fiscal impact to repealing the above rules.

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: Kenneth Mordan, 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 dphhslegal@mt.gov, and must be received no later than 5:00 p.m., August 18, 2017.

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 or may be made by completing a request form at any rules hearing held by the department.

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

10. 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.

11. 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 appropriate for performance-based measurement and therefore are subject to the performance-based measures requirement of 53-6-196, MCA.

The amendments to the "High Risk Pregnancy" and "Children and Youth with Special Health Care Needs" Targeted Case Management rules are intended to increase the number of providers offering these health care services. Pursuant to

53-6-196, MCA, the department will measure the rule amendments' intended outcomes over a 9-month period of time. The department will compare the total number of Targeted Case Management providers enrolled with the department prior to the effective date of the rule amendments and compare that number to the total number of enrolled Targeted Case Management providers after the rule amendments have been in effect for 9 months.

/s/ Brenda K. Elias
Brenda K. Elias, Attorney
Rule Reviewer

/s/ Laura Smith for
Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State July 10, 2017.

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
ARM 37.40.307, 37.40.311,) PROPOSED AMENDMENT
37.40.337, and 37.40.361 pertaining)
to revising nursing facility)
reimbursement rates for state fiscal)
year 2018)

TO: All Concerned Persons

1. On August 15, 2017, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rules.

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 August 2, 2017, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, 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 dphhslegal@mt.gov.

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

37.40.307 NURSING FACILITY REIMBURSEMENT (1) remains the same.

(2) Effective July 1, 2001, and in subsequent rate years, nursing facilities will be reimbursed using a price-based reimbursement methodology. The rate for each facility will be determined using the operating component defined in (2)(a) and the direct resident care component defined in (2)(b):

(a) through (c) remain the same.

(d) The total payment rate available for the period ~~July 1, 2016~~ July 1, 2017 through ~~June 30, 2017~~ June 30, 2018 will be the rate as computed in (2), plus any additional amount computed in ARM 37.40.311 and 37.40.361.

(3) Providers who, as of July 1 of the rate year, have not filed with the department a cost report covering a period of at least six months participation in the Medicaid program in a newly constructed facility will have a rate set at the statewide median price as computed on ~~July 1, 2016~~ July 1, 2017. Following a change in provider as defined in ARM 37.40.325, the per diem rate for the new provider will be set at the previous provider's rate, as if no change in provider had occurred.

(4) through (12) remain the same.

AUTH: 53-2-201, 53-6-113, MCA
IMP: 53-6-101, 53-6-111, 53-6-113, MCA

37.40.311 RATE ADJUSTMENT FOR COUNTY FUNDED RURAL NURSING FACILITIES (1) remains the same.

(2) A nursing facility is eligible to participate in this lump sum payment distribution if it is a nonstate government owned or operated facility that has provided Medicaid services in the current state fiscal year.

(a) through (7) remain the same.

AUTH: 53-6-113, MCA
IMP: 53-6-101, 53-6-111, 53-6-113, MCA

37.40.337 REIMBURSEMENT TO OUT-OF-STATE FACILITIES (1) and (2) remain the same.

(3) To receive payments, the out-of-state provider must enroll in the Montana Medicaid program. Enrollment information and instructions may be obtained from the department's fiscal intermediary, ~~XEROX, at P.O. Box 4936, Helena, MT 59604-4936.~~

(4) and (5) remain the same.

AUTH: 53-2-201, 53-6-113, MCA
IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

37.40.361 DIRECT CARE AND ANCILLARY SERVICES WORKERS' WAGE REPORTING/ADDITIONAL PAYMENTS INCLUDING LUMP SUM PAYMENTS FOR DIRECT CARE AND ANCILLARY SERVICES WORKERS' WAGE AND BENEFIT INCREASES (1) Effective for the period ~~July 1, 2016~~ July 1, 2017 and for

the six months thereafter, nursing facilities must report to the department actual hourly wage and benefit rates paid for all direct care and ancillary services workers or the lump sum payment amounts for all direct care and ancillary services workers that will receive the benefit of the increased funds. The reported data will be used by the department for the purpose of comparing types and rates of payment for comparable services and tracking distribution of direct care wage funds to designated workers.

(2) The department will pay Medicaid certified nursing care facilities located in Montana that submit an approved request to the department a lump sum payment in addition to the amount paid as provided in ARM 37.40.307 and 37.40.311 to their computed Medicaid payment rate to be used only for wage and benefit increases or lump sum payments for direct care or ancillary services workers in nursing facilities.

(a) The department will determine the lump sum payments, twice a year commencing ~~July 1, 2016~~ July 1, 2017, and again in six months from that date as a pro rata share of appropriated funds allocated for increases in direct care and ancillary services workers' wages and benefits or lump sum payments to direct care and ancillary services workers.

(b) through (3) remain the same.

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

4. STATEMENT OF REASONABLE NECESSITY

Medicaid nursing facility rates will be effective July 1, 2017, for the upcoming state fiscal year (SFY). The Department of Public Health and Human Services (department) is proposing amendments to ARM 37.40.307, 37.40.311, 37.40.337, and 37.40.361 pertaining to revising nursing facility reimbursement rates for the upcoming SFY 2018.

The proposed amendments to the rules are as follows:

ARM 37.40.307

The proposed amendment to (2)(d) updates the SFY 2017 reference (July 1, 2016, through June 30, 2017), to SFY 2018 (July 1, 2017, through June 30, 2018). This change is necessary for the department to provide notice of the current period for funding of Medicaid nursing facility provider rates.

The proposed amendment to (3) updates the SFY 2017 reference (July 1, 2016), to SFY 2018 (July 1, 2017). This change is necessary for the department to provide notice of the current period Medicaid nursing facility statewide median price.

Rate calculations include House Bill (HB2) and HB618 funding appropriated by the 65th Legislative Session, annualized FY2017 Medicaid paid days, and individual facility case mix index (resident acuity) to determine nursing facility providers' reimbursement according to the methodology outlined in (2), (2)(a), and (2)(b) of this rule.

ARM 37.40.311

The proposed amendment to (2) amends the wording in the rule relative to the "at risk" payment to county affiliated nursing facilities that close during a SFY. Given the recent trend of county nursing facilities closing before the end of the current SFY, this proposed change is necessary to allow county nursing facilities to participate or not in the Intergovernmental Transfer Program (IGT).

ARM 37.40.337

The proposed amendment to (3) deletes the name and address of the department's fiscal intermediary. This change is necessary since the fiscal intermediary's name and address is on the provider website. We will not have to amend this rule when the fiscal intermediary's name and address changes.

ARM 37.40.361

The proposed amendment to (1) and (2)(a) updates the SFY 2017 reference (July 1, 2016), to SFY 2018 (July 1, 2017). This change is necessary for the department to provide notice of the current period for funding of Medicaid direct-care wage payments to the nursing facility providers.

Fiscal Impact

Nursing facility reimbursement will include an increase of 6.21% in provider rates. The 65th Legislative Session appropriated \$144,088,879 in HB2 and \$11,132,634 in HB618 for Medicaid nursing facility reimbursement. The estimated total funding available for SFY 2018 for nursing facility reimbursement is estimated at approximately \$187,546,323 of combined state funds and federal funds, including \$32,324,810 in patient contributions. These numbers do not include at risk provider funds or direct care wage funding.

Anticipated days for SFY2018 are 1,002,009 using estimates from SFY2017 Medicaid paid days.

The SFY 2018 appropriated funding for lump-sum payments to providers for direct care and ancillary workers is \$6,970,153 for the nursing facility direct-care worker wage program.

Seventy-three nursing facility providers participated in the Medicaid nursing facility payment program and approximately 4,200 recipients received services in nursing facilities under Medicaid.

5. The department intends to apply these rule amendments retroactively to July 1, 2017. A retroactive application of the proposed rule amendments does not result in a negative impact to any affected party.

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: Kenneth Mordan, 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 dphhslegal@mt.gov, and must be received no later than 5:00 p.m., August 18, 2017.

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 or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was notified by electronic mail (e-mail) on July 10, 2017.

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

11. 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/ Caroline Warne
Caroline Warne
Rule Reviewer

/s/ Laura Smith for
Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State July 10, 2017.

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
ARM 37.71.107, 37.71.110,) PROPOSED AMENDMENT
37.71.601, and 37.71.602 pertaining)
to Low-Income Weatherization)
Assistance Program (LIWAP))

TO: All Concerned Persons

1. On August 10, 2017, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in Room 207 of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rules.

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 August 2, 2017, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, 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 dphhslegal@mt.gov.

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

37.71.107 REFERRALS TO THE DEPARTMENT OF JUSTICE QUALITY ASSURANCE DIVISION, PROGRAM COMPLIANCE BUREAU (1) ~~When requested by the department, the department of justice shall have the power and duty to:~~

~~(a) investigate matters relating to weatherization assistance including, but not limited to, the claim for an acceptance of benefits by recipients and the receipt and disbursement of funds by the department or the local contractor; and~~

~~(b) institute civil and criminal actions in the appropriate courts to enforce the welfare laws with respect to low income weatherization assistance and violations thereof.~~ The Quality Assurance Division, Program Compliance Bureau (PCB) will have the power and duty to conduct an investigation to determine, based on the evidence gathered, whether a person or household has committed a program violation as defined in ARM 37.71.110.

~~(2) The audit and compliance bureau is the liaison between the department and the department of justice. Referrals of fraud and requests for investigation must be sent to the Department of Public Health and Human Services, Quality Assurance Division, Audit and Compliance Bureau, 2401 Colonial Drive, P.O. Box 202953,~~

Helena, MT 59620-2953, before they are referred to the department of justice. When the department of justice makes a direct request to the local contractor for case information, the information may be sent directly to the department of justice. Requests to investigate suspected program violations must be sent to the department's Intergovernmental Human Services Bureau (IHSB), P.O. Box 202956, Helena, MT 59620-2956. IHSB will review cases prior to referral to the PCB.

AUTH: 53-2-201, 90-4-201, MCA
IMP: 90-4-201, 90-4-202, MCA

37.71.110 FRAUD WEATHERIZATION ASSISTANCE PROGRAM VIOLATIONS (1) ~~Whoever knowingly obtains by means of a willfully false statement, representation, or impersonation or other fraudulent device low income weatherization assistance to which he is not entitled is guilty of theft as provided in 45-6-301, MCA. A person is guilty of a program violation if the person purposely or knowingly obtains weatherization assistance provided under Title 53, chapter 2, part 2, MCA, that the person is not entitled to receive, by means of:~~

- (a) a knowingly false statement, representation, or impersonation; or
- (b) a fraudulent scheme or device.

(2) ~~If an individual~~ a person appears to have received assistance fraudulently committed a program violation, the local contractor must report all facts of the matter to the ~~audit and compliance bureau~~ Intergovernmental Human Services Bureau (IHSB) to determine if the case should be referred to the department's Quality Assurance Division, Program Compliance Bureau (PCB). The ~~bureau~~ PCB may ~~in turn~~ refer the matter to the Department of Justice or the county attorney of the county in which the ~~recipient~~ person resides for further action.

AUTH: 53-2-201, 90-4-201, MCA
IMP: 90-4-201, 90-4-202, MCA

37.71.601 ELIGIBILITY FOR WEATHERIZATION SERVICE: PRIORITIES

(1) through (9) remain the same.

(10) When a dwelling is prioritized high enough to be scheduled for weatherization work, the delivery of services will be deferred until a later date if providing the services would pose a threat to the health or safety of either the weatherization installers or any other person. In such cases the delivery of services will be postponed until the conditions that pose a threat to health or safety have been resolved. The department adopts and incorporates by reference the department's Weatherization Assistance Program (WAP) ~~circumstances~~ Policy Manual effective July 1, 2017, which outlines the circumstances that justify a deferral of weatherization services which are included in the WAP manual, effective July 1, 2016. The WAP ~~manual~~ Policy Manual is located at the department's web site at <http://dphhs.mt.gov/hcsd/energyassistance.aspx> or a copy may be obtained from the Department of Public Health and Human Services, Human and Community Services Division, Intergovernmental Human Services Bureau, P.O. Box 202956, Helena, MT 59620.

AUTH: 53-2-201, 90-4-201, MCA
IMP: 53-2-201, 90-4-201, 90-4-202, MCA

37.71.602 DETERMINING LOW INCOME WEATHERIZATION ASSISTANCE (1) remains the same.

(2) Dwellings chosen to be weatherized must receive those measures determined to be cost effective as defined in 10 CFR, part 440, as amended through July 1, ~~2016~~ 2017. The department adopts and incorporates by reference 10 CFR, part 440, as amended through July 1, ~~2016~~ 2017. A copy of these federal regulations may be obtained from the Department of Public Health and Human Services, Human and Community Services Division, 111 N. Jackson St., P.O. Box 202925, Helena, MT 59620-2925.

(3) remains the same.

(4) The department adopts and incorporates by reference the department's Weatherization Assistance Program (WAP) Policy and Procedure manual Manual and ~~Montana~~ National Renewable Energy Laboratory (NREL) Standard Work Specifications effective July 1, ~~2016~~ 2017. The WAP ~~policy and procedure manual~~ and ~~Montana Standard Work Specifications~~ Policy Manual is are located at the department's web site at <http://dphhs.mt.gov/hcsd/energyassistance.aspx> or a copy may be obtained from the Department of Public Health and Human Services, Human and Community Services Division, Intergovernmental Human Services Bureau, P.O. Box 202956, Helena, MT 59620. The NREL Standard Work Specifications are located at the NREL web site at <https://sws.nrel.gov/>.

AUTH: 53-2-201, 90-4-201, MCA
IMP: 53-2-201, 90-4-201, 90-4-202, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing the amendment of ARM 37.71.107, 37.71.110, 37.71.601, and 37.71.602 pertaining to the Low Income Weatherization Assistance Program (LIWAP). LIWAP is a program to help low income households reduce home heating costs and address heating related health and safety issues.

ARM 37.71.107 and 37.71.110

The department's bureau formerly called the Audit and Compliance Bureau has been renamed the Program Compliance Bureau (PCB), so it is necessary to replace the name Audit and Compliance Bureau with its new name in ARM 37.71.107 and 37.71.110.

ARM 37.71.107(1) currently authorizes the Department of Justice to conduct investigations of LIWAP cases and institute civil and criminal actions. The department proposes to amend (1) to provide that the department's PCB will conduct investigations instead of the Department of Justice. This change is being made because the PCB investigates wrongful receipt of benefits in the Low Income Energy

Assistance Program (LIEAP), which is closely related to LIWAP. As part of the department, the PCB is also more knowledgeable about LIWAP rules than the Department of Justice. The authorization to institute civil and criminal actions must be deleted because the PCB cannot institute criminal actions, and it is not within the scope of its duties to bring civil actions in LIWAP cases.

In addition, (1) of ARM 37.71.107 is being amended to specify that the purpose of PCB's investigation is to determine whether a person or household has committed a program violation as defined in ARM 37.71.110. Currently ARM 37.71.107 refers to fraud referrals and investigations. Fraud is an ambiguous term susceptible to various meanings. By substituting a different term that is defined in ARM 37.71.110 the rule will express more clearly the purpose of PCB's investigations.

ARM 37.71.107(2) currently provides that the Audit and Compliance Bureau will be the liaison between the department and the Department of Justice. This provision must be removed because the Department of Justice will no longer be doing investigations for the department. The term "fraud" is being replaced in (2) by "program violation" for the reasons discussed above. Section (2) is also being amended to provide that referrals should be made to the department's Intergovernmental Human Services Bureau (IHSB). Having IHSB review reports of possible program violations before cases are referred to PCB will prevent PCB from using its resources to investigate cases that have no merit, because IHSB as the entity that administers LIWAP will be able to determine more readily whether a program violation may have occurred.

ARM 37.71.110(1) currently includes an abbreviated version of the term "theft" as defined in 45-6-301, MCA, but does not use the term "theft" anywhere in the rule. Section (2) discusses fraud referrals, not referrals regarding theft. For clarity the department proposes to eliminate the terms "theft" and "fraud" and replace them with the term "program violation." The definition of "program violation" that will be provided in (1) is substantially the same as the definition of "theft" in the current rule.

ARM 37.71.110(2) currently provides that a local contractor must report suspected wrongdoing by an individual to the Audit and Compliance Bureau. In addition to changing "Audit and Compliance Bureau" to "Program Compliance Bureau" as discussed above, "person" is being substituted for "individual." In the past, a number of terms including "recipient," "individual," and "person" have been used in the LIWAP rules to refer to LIWAP participants. The department is substituting "person" for "individual" in ARM 37.71.110(2) as part of its effort to create consistency by substituting "person" for "individual" and "recipient" throughout the LIWAP rules. Consistency is necessary because the use of different words to mean the same thing can be confusing.

ARM 37.71.601

ARM 37.71.601(10) provides that the delivery of weatherization services will be deferred until a later date if a dwelling has a sufficiently high priority to be scheduled

for weatherization work but providing the services would pose a threat to the health or safety of either the weatherization installers or any other person. Section (10) currently adopts and incorporates by reference the provisions of the department's Weatherization Assistance Program (WAP) Manual effective July 1, 2016 that specify the circumstances justifying deferral of weatherization services based on health or safety issues. The department proposes to amend the rule to adopt and incorporate by reference the department's WAP Manual that will take effect on July 1, 2017, which specifies the circumstances that justify deferral of weatherization services. The provisions on deferral in the July 1, 2017 edition of the WAP Manual are the same as the provisions in the 2016 edition, but the 2016 edition will not be available online after July 1, 2017. If the department did not amend the rule to incorporate the 2017 edition of the Manual instead of the 2016 edition, interested persons would not be able to find the Manual cited in the rule online.

ARM 37.71.601

The department also proposes amending ARM 37.71.601(10) by changing the name of the WAP Manual to the WAP Policy Manual. This is necessary for consistency because the Manual is referred to as the WAP Policy Manual on the department's web site and in the WAP State Plan.

ARM 37.71.602

ARM 37.71.602(2) currently provides that dwellings being weatherized must receive measures determined to be cost effective as defined in 10 CFR, part 440, as amended through July 1, 2016, which is adopted and incorporated by reference. Although 10 CFR, part 440, has not been amended since July 1, 2016, the department proposes to amend the rule to adopt and incorporate by reference 10 CFR, part 440, as amended through July 1, 2017, because it may be easier to find the most recent edition of 10 CFR, part 440, than a previous edition.

ARM 37.71.602(4) currently incorporates the WAP Policy and Procedure Manual effective July 1, 2016. The department proposes to amend the rule to incorporate the WAP Manual effective July 1, 2017 because the 2016 version of the WAP Manual will not be available online after July 1, 2017. If the department did not amend the rule to incorporate the 2017 edition of the Manual instead of the 2016 edition, interested persons would not be able to find the Manual cited in the rule online. Additionally, the department is amending the rule by changing the name of the WAP Policy and Procedures Manual to the WAP Policy Manual. This is necessary for consistency because the Manual is referred to as the WAP Policy Manual on the department's web site and in the WAP State Plan.

ARM 37.71.602(4) also incorporates the Montana Standard Work Specifications effective July 1, 2016. The department proposes to amend the rule to incorporate the National Renewable Energy Laboratory (NREL) Standard Work Specifications effective July 1, 2017 rather than the Montana Standard Work Specifications. This change will not result in any change in the work specifications applicable to WAP.

The NREL Standard Work Specifications are being incorporated in the rule because they are easier to access online than the Montana Standard Work Specifications.

Fiscal Impact

Low Income Energy Assistance Program, Department of Energy, Bonneville Power Associates are 100% federally funded. Montana Dakota Utilities, NorthWestern Energy, are 100% utility funds. U.S. Department of Energy funding in 2017 is based on the 2016 allocation levels and will be updated once the federal fiscal year (FFY17) budget is passed and the updated allocations have been issued to the State of Montana. The department estimates that Montana will receive the same amount in utility funds, compared to last heating season. It is estimated that 20,000 households will qualify for weatherization benefits this year which is comparable to last year.

5. The department intends to apply ARM 37.71.601 and 37.71.602 retroactively to July 1, 2017. A retroactive application of the proposed rules does not result in a negative impact to any affected party. Rule amendments to ARM 37.71.107 and 37.71.110 are effective the day after publication of the final notice of adoption.

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: Kenneth Mordan, 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 dphhslegal@mt.gov, and must be received no later than 5:00 p.m., August 18, 2017.

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 or may be made by completing a request form at any rules hearing held by the department.

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

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

11. 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/ Barbara Banchemo
Barbara Banchemo
Rule Reviewer

/s/ Marie Matthews for
Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State July 10, 2017.

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
Rule I pertaining to revising nursing) PROPOSED ADOPTION
facility reimbursement rates for state)
fiscal year 2018)

TO: All Concerned Persons

1. On August 15, 2017, at 2:30 p.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed adoption of the above-stated rule.

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 August 2, 2017, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, 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 dphhslegal@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I NURSING FACILITY REIMBURSEMENT (1) For nursing facility services, other than Intermediate Care facilities for Individuals with Intellectual Disabilities (ICF/IID) services, provided by nursing facilities located within the state of Montana, the Montana Medicaid program will pay a provider, for each Medicaid patient day, a per diem rate determined in accordance with this rule, minus the amount of the Medicaid member's patient contribution.

(2) Effective October 1, 2017 through June 30, 2018, the rate for nursing facilities will be reimbursed using a price-based reimbursement methodology. The rate for each facility will be determined using the component defined in ARM 37.40.307(2)(a) and (b).

AUTH: 53-2-201, 53-6-113, MCA

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing a new rule pertaining to revising nursing facility reimbursement rates for SFY 2018.

The proposed Medicaid nursing facility rates will be effective October 1, 2017, for the remainder of state fiscal year (SFY) 2018.

The reason for the proposed rule is as follows:

NEW RULE I

The Department of Public Health and Human Services (department) administers the Montana Medicaid program to provide health care to Montana's qualified low income, elderly and disabled residents. Medicaid is a public assistance program paid for with state and federal funds appropriated to pay health care providers for the covered medical services they deliver to Medicaid members. The Legislature delegates authority to the department to set the reimbursement rates based on the amount of available funding Montana pays Medicaid and non-Medicaid providers for members' covered services.

The purpose of the proposed rule is to revise provider rates to implement the mandated legislative reductions in Senate Bill (SB261), passed by the 65th Montana Legislature if overall state general fund revenue projections do not meet certain levels on August 15, 2017.

SB261 requires the department to decrease expenditures if certain state revenue levels are not achieved on August 15, 2017. This rule is being proposed with an effective date of October 1, 2017, to comply with the reductions mandated by the Legislature in anticipation that these revenue levels will not be met. If necessary revenue is received, the proposed reductions will not be adopted as proposed. The department has chosen to notice these rules at this time rather than wait until after the August 15, 2017, level of revenue is known because delay of notice and implementation would increase the size of the proposed reductions as the same dollar amount of reduction would need to occur over fewer months of the fiscal year.

Annually, Montana Medicaid completes a cost-to-rate analysis to determine the level of provider costs covered by the total provider reimbursement rate. Utilizing the historical cost to rate report data, the department has determined the new proposed rates are consistent with efficiency, economy, and quality of care. These rates are sufficient to enlist enough providers so that care and services under the Montana Medicaid program are available to the extent that such care and services are available to the general population in the geographic area.

Fiscal Impact

Due to anticipated decreases in revenues, the department is implementing an across-the-board reduction in payments for certain Medicaid services and supplies reimbursed through RBRVS, APR-DRG, Outpatient Prospective Payment System (OPPS) for outpatient hospital services, fee for service, nursing facility reimbursement, and Medicare payment methodologies. The percentage of reduction in overall expenditures needed to stay within legislatively approved

appropriations in HB2 and SB261 is calculated at 3.47%. The reduction of 3.47% is to the general fund portion of the funding for nursing facility reimbursement which is made up of general fund and state special funding to match to the federal funding decreasing the impact to nursing facility reimbursement. State special funding is not impacted by the decrease required by SB261.

Nursing facility reimbursement is a decrease of 2.64% from the July 1, 2017, provider rates. Total funding for provider rates include the legislative appropriated state and federal funds plus estimated patient contributions. Patients, depending on their income, are required to pay a portion of the rate to providers. The estimated total funding available for SFY 2018 for nursing facility reimbursement is estimated at approximately \$187,546,323 of combined state funds and federal funds, including \$32,324,810 in patient contributions minus the SB261 reduction of \$3,718,147. SB261 requires a reduction in expenditures for provider rates based on state revenue level not achieved by August 15, 2017. This reduction to nursing facility providers is \$3,718,147 and is taken from the appropriated state and federal funds and not patient contributions.

Given the effective date of this rule, October 1, 2017 (1/4 of SFY2018), 25% of the total funding and days were taken out of the rate calculation (leaving \$140,659,743 and 751,507 days), in order to calculate the new rate for the remaining 9 months of the fiscal year (October 1, 2017, through the end of the fiscal year, June 30, 2018).

Anticipated days for SFY2018 are 1,002,009 using estimates from SFY2017 Medicaid paid days.

These numbers do not include the additional funding nursing facilities receive for at risk provider funds or direct care wage funding.

Seventy-three nursing facility providers participated in the Medicaid nursing facility payment program and approximately 4,200 received services in nursing facilities reimbursed by Medicaid.

5. The department intends the proposed rule amendments to be applied effective October 1, 2017.

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: Kenneth Mordan, 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 dphhslegal@mt.gov, and must be received no later than 5:00 p.m., August 18, 2017.

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 or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was notified by electronic mail (e-mail) on July 10, 2017.

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

11. 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/ Caroline Warne
Caroline Warne, Attorney
Rule Reviewer

/s/ Laura Smith for
Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State July 10, 2017.

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 44.2.204 pertaining to access to) PROPOSED AMENDMENT
documents and fees for copies)

TO: All Concerned Persons

1. On August 14, 2017, at 9:30 a.m., the Secretary of State will hold a public hearing in the Secretary of State's Office Conference Room, Room 260, State Capitol Building, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Secretary of State will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Secretary of State no later than 5:00 p.m. on August 8, 2017, to advise us of the nature of the accommodation that you need. Please contact Jeff Hindoien, Secretary of State's Office, P.O. Box 202801, Helena, MT 59620-2801; telephone (406) 444-6197; fax (406) 444-4249; TDD/Montana Relay Service (406) 444-9068; or e-mail Jeffrey.Hindoien@mt.gov.

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

44.2.204 ACCESS TO DOCUMENTS PUBLIC INFORMATION AND FEES FOR COPIES (1) Pursuant to Article II, section 9, of the Montana Constitution, and 2-6-1003, MCA, government documents and public information may be examined and copies provided to the public, with a few exceptions where privacy and security concerns outweigh the public's right to know.

(a) This rule pertains to public information documents and ~~electronic and nonprint records~~ made available or copied pursuant to the public's right to know.

(b) Fees charged for other services provided by the Secretary of State's office are not affected by this rule, including but not limited to document and record services provided by the Business Services Division, Administrative Rules Services, Notarial Services, and Records and Information Management Services.

~~(2) Documents in the Secretary of State's office are available for public inspection between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.~~

(3) (2) Requests to examine public information in the Secretary of State's Office will be granted by appointment. There is no charge for examination of documents public information in the office, but fees for research and preparing public information for examination or copying will be charged in accordance with (5).

~~(4) (3) The Secretary of State will determine on a case-by-case basis whether a staff person must be present to observe and supervise the examination of documents and whether documents can be removed from the office shall maintain the integrity of original records. If in the opinion of the Secretary of State any~~

requested record might be altered, stolen, or is irreplaceable, a staff person will supervise any examination or copying of that record.

~~(5)~~ (4) Requests to examine and/or for copies of documents public information will be processed and completed as soon as possible depending on upon the workload and availability of staff. Agency staff will be responsible for gathering and providing the requested copies utilizing office equipment and resources.

~~(6)~~ A Secretary of State staff person will provide the copies requested utilizing office equipment and resources.

~~(7)~~ (5) The Secretary of State will determine the form in which a copy of public information will be provided, i.e., certain election records will only be provided as digital images on a compact disk. In accordance with 2-6-1006, MCA, the Secretary of State is not required to alter or customize any public information to provide it in a form specified to meet the needs of any requesting person. A request for a customized record request response will be reviewed in accordance with 2-6-1006, MCA.

~~(8)~~ The following fees will be charged for copies of documents:

~~(a)~~ Photocopies, \$.50 per page;

~~(b)~~ Digital images provided on a compact disk, \$.15 per page.

~~(6)~~ In accordance with 2-6-1006, MCA, the Secretary of State will charge fees for fulfilling requests for public information, not to exceed the actual costs directly incident to fulfilling the request in the most cost-efficient and timely manner possible. The fees will include the staff time required to review and gather the public information, including but not limited to legal review, research, IT services, gathering, and copying. Payment of the fees will be required in advance in accordance with 2-6-1006, MCA, and will be as follows:

(a) photocopies, \$.50 per page

(b) digital images, \$.15 per page

(c) staff time to gather and prepare documents for copying – actual cost

(d) records recalled from offsite storage – actual cost

(e) staff time for gathering and copying electronic files – actual cost

(f) digital media – actual cost

(g) legal review – actual cost

(h) research / analysis apart from simple collection – actual cost

(i) additional services required of Information & Technology Services Division – actual cost

(7) Agency staff will record and document all time and expenses associated with a public information request, and a fee for staff time will be charged only when it exceeds one-half hour of time.

~~(9)~~ Fees charged for electronic information and nonprint records will be determined on a case-by-case basis pursuant to 2-6-1006, MCA.

AUTH: 2-15-405, 2-6-1006, MCA

IMP: Article II, section 9, Montana Constitution, 2-6-1003, 2-6-1006, MCA

REASON: In 2015, the Montana Legislature completely revised the public records statutes contained in Title 2, chapter 6, MCA through HB 123. These amendments

are necessary to both (1) update the statutory references and language contained within the rule and (2) to set the fees to be charged for fulfilling public information requests as specifically contemplated by HB 123.

In proposed (1), the terms "electronic records" and "non-print records" were contained in the now-repealed 2-6-110, MCA (2013). The generally operative terms under the new HB 123 structure are "public information" and "public records." See 2-6-1002(11) and (13), MCA. In proposed (2), the Secretary of State is authorized to charge fees for fulfilling requests for public information in the same manner as all other public agencies, but is also specifically required under 2-6-1006(6)(a), MCA to set and deposit those fees in accordance with 2-15-405, MCA. The latter statute requires that the Secretary of State set its fees through administrative rule, and this rule amendment is necessary to set and establish the fees contained therein.

The proposed new content of the rule is based on the newest policies adopted by other executive branch agencies to implement the provisions of 2-6-1003 and 2-6-1006, MCA. See e.g., Montana Department of Administration Public Records Request Policy and Fee Schedule, 1/23/17; Montana Department of Commerce Guidelines, Public Records Request Policy and Fee Schedule, 1/25/2017.

4. With regard to the requirements of 2-4-302(1)(c), MCA, the Secretary of State has received anywhere from 15 to 30 requests for public information per year for the period 2015 through present. However, those requests have varied significantly in terms of the volume of information requested and the relative difficulty in gathering and preparing the information to provide in response to the request. The Secretary of State does not anticipate that the fee changes will have any material impact on small-scale public information requests, but estimates that larger-scale public information requests will result in charges that may average \$100 to \$300 per request. Assuming 5 to 10 larger-scale public information requests per year, the cumulative amount for all persons from the new fee structure will likely range from \$2000 to \$3000 per year.

5. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Jeff Hindoien, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, or by e-mailing Jeffrey.Hindoien@mt.gov, and must be received no later than 5:00 p.m., August 18, 2017.

6. Jeff Hindoien, Secretary of State's Office, P.O. Box 202801, Helena, Montana 59620-2801, has been designated to preside over and conduct the hearing.

7. The Secretary of State 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 which includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding administrative rules,

corporations, elections, notaries, records, uniform commercial code, or a combination thereof. 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 Secretary of State's Office, Administrative Rules Services, 1236 Sixth Avenue, P.O. Box 202801, Helena, MT 59620-2801, faxed to the office at (406) 444-4263, or may be made by completing a request form at any rules hearing held by the Secretary of State's Office.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by letter on July 18, 2017.

9. With regard to the requirements of 2-4-111, MCA, the Secretary of State has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

/s/ JEFFREY M. HINDOIEN
Jeffrey M. Hindoien
Rule Reviewer

/s/ COREY STAPLETON
Corey Stapleton
Secretary of State

Dated this 10th day of July, 2017.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION
Rule I pertaining to due date of annual)
financial statement for escrow licensee)

TO: All Concerned Persons

1. On May 26, 2017, the Department of Administration published MAR Notice No. 2-59-558 pertaining to the proposed adoption of the above-stated rule at page 623 of the 2017 Montana Administrative Register, Issue Number 10.

2. No comments were received.

3. The department has adopted New Rule I (ARM 2.59.713) exactly as proposed.

By: /s/ John Lewis
John Lewis, Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State July 10, 2017.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 8.99.917 and ARM 8.99.918)
pertaining to the implementation of)
the Big Sky Economic Development)
Trust Program)

TO: All Concerned Persons

1. On June 9, 2017, the Department of Commerce published MAR Notice No. 8-99-154 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 727 of the 2017 Montana Administrative Register, Issue Number 11.

2. The department has amended the above-stated rules as proposed.

3. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: Two comments were received supporting the addition of local governments as eligible applicants for Planning Grant Projects.

RESPONSE #1: Thank you for your comments.

COMMENT #2: A comment was received that the language in Section A.2 did not list local governments under Planning Grant Projects.

RESPONSE #2: Local Governments were added to this section. New language: Planning Grant Projects 25% of BSTF earnings shall be awarded to Certified Regional Development Corporations (CRDCs), local or tribal governments and other eligible economic development organizations that are located in a county that is not part of a CRDC, in the form of grants or loans for economic development planning.

/s/ G. Martin Tuttle
G. Martin Tuttle
Rule Reviewer

/s/ Pam Haxby-Cote
Pam Haxby-Cote
Director
Department of Commerce

Certified to the Secretary of State July 10, 2017.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 8.99.806 pertaining to the)
implementation of the Primary Sector)
Workforce Training Program)

TO: All Concerned Persons

1. On June 9, 2017, the Department of Commerce published MAR Notice No. 8-99-155 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 730 of the 2017 Montana Administrative Register, Issue Number 11.

2. The department has amended the above-stated rule as proposed.

3. No comments or testimony were received.

/s/ G. Martin Tuttle
G. Martin Tuttle
Rule Reviewer

/s/ Pam Haxby-Cote
Pam Haxby-Cote
Director
Department of Commerce

Certified to the Secretary of State July 10, 2017.

BEFORE THE BOARD OF PHARMACY
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.174.1712 pertaining to the)
prescription drug registry fee)

TO: All Concerned Persons

1. On March 10, 2017, the Board of Pharmacy (board) published MAR Notice No. 24-174-68 regarding the public hearing on the proposed amendment of the above-stated rule, at page 264 of the 2017 Montana Administrative Register, Issue No. 5.

2. On March 31, 2017, a public hearing was held on the proposed amendment of the above-stated rule in Helena. No comments were received by the April 7, 2017, deadline.

3. The board has amended ARM 24.174.1712 exactly as proposed.

BOARD OF PHARMACY
STARLA BLANK, RPh
PRESIDENT

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State July 10, 2017.

BEFORE THE BOARD OF REALTY REGULATION
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF AMENDMENT,
ARM 24.210.641 unprofessional)	ADOPTION, AND REPEAL
conduct, 24.210.661 new licensee)	
mandatory continuing education --)	
salespersons, 24.210.666 course)	
provider, 24.210.674 continuing real)	
estate education -- course approval,)	
24.210.677 continuing real estate)	
education -- instructor approval,)	
24.210.825 renewals, and 24.210.829)	
new licensee mandatory continuing)	
education -- property manager, the)	
adoption of NEW RULE I nonroutine)	
applications and NEW RULE II trust)	
account course requirement, and the)	
repeal of ARM 24.210.615 application)	
for determination of equivalent)	
experience for broker licensing)	

TO: All Concerned Persons

1. On March 24, 2017, the Board of Realty Regulation (board) published MAR Notice No. 24-210-43 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 319 of the 2017 Montana Administrative Register, Issue No. 6.

2. On April 18, 2017, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. Several comments were received by the April 21, 2017, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments and the board responses are as follows:

ARM 24.210.641

COMMENT 1: Several commenters supported adding failure of supervising brokers to adequately supervise as unprofessional conduct. The commenters agreed with the board that limiting the number of salespeople a broker can supervise, as suggested in a legislative audit, will not address numbers of complaints or quality of supervision provided. One commenter thought the amendment may be hard to administer and suggested the board define "adequately supervise" and require broker accountability and adequate education/training going forward.

COMMENT 2: One commenter stated the amendment is vague and ambiguous with no criteria for judging the actions of a supervising broker. The commenter was concerned that different standards may be applied to different licensees for the same conduct, as referenced in the legislative audit, and suggested the board establish more specific criteria for determining failure to adequately supervise.

RESPONSE TO COMMENTS 1 and 2: The board appreciates all comments made during the rulemaking process. The board is amending this rule exactly as proposed, but will consider the suggestions in future rulemaking.

ARM 24.210.661

COMMENT 3: Several commenters noted that the board's task force is currently assessing whether to incorporate rookie course content into the 60-hour prelicensing requirement and modify the sales licensee exam to shift focus from national to Montana-specific issues. Commenters stated that changing the prelicensing course and test will better ensure new licensees that are qualified to practice, imposing a 120-day time limit will place a significant hardship on new licensees, and there is no assurance that courses will be available throughout the year.

COMMENT 4: Numerous commenters agreed that more can be done to ensure education and testing of licensees match the real-world needs of agents. The commenters believed it is critical that the rookie course is taken shortly after licensure and one commenter suggested the board require the rookie course be held only in live presentations. Commenters stated that if the board is going to require completion of the rookie course on a short schedule, it is incumbent on the board to also make sure courses are available. The commenter offered to work with local associations to ensure that the class is offered on a timely basis.

RESPONSE TO COMMENTS 3 and 4: The board concluded the proposed amendments meet the concerns regarding when to take the rookie course. The education committee is actively evaluating the prelicensing issues, but there is no guarantee of any change. The board is amending the rule exactly as proposed.

ARM 24.210.666

COMMENT 5: Many commenters supported the amendment to help reimburse rookie course presenters but some thought the amendments may not adequately address attendance at rookie classes early in the education year. Several pointed out that local associations had presented the rookie courses for three years, even though it was only supposed to be a temporary situation. Several commenters suggested that the board remove the proposed \$2,000 limit on the reimbursement.

RESPONSE 5: The board concluded that the \$2,000 reimbursement limit is appropriate and did not intend to address rookie class attendance early in the year in this rules project. The board is amending the rule exactly as proposed.

ARM 24.210.674

COMMENT 6: One commenter believed the amendment of (2) to pair instructors with courses is confusing, especially between the first and second sentences. If the intent is that a new instructor application is not required at renewal if the course is renewed by a previously approved instructor, the commenter suggested the board amend the language to reduce confusion.

RESPONSE 6: The board does not believe the language is confusing. Noting that a course must be paired with at least one instructor approved to teach it, the board determined it is clear the course can be approved one time and still can have multiple instructors approved to teach that course. The board is amending the rule exactly as proposed.

COMMENT 7: Several commenters supported the amendment to extend course approval when the approval is granted less than three months before the end of the calendar year.

RESPONSE 7: The board appreciates all comments made during the rulemaking process.

ARM 24.210.677

COMMENT 8: One commenter opposed requiring that persons wishing to teach the supervising broker prelicensing or continuing education courses have seven years of active licensed experience as a supervising broker. The commenter stated the requirement would disqualify many individuals, including the commenter. The commenter asserted that experience as a supervising broker should be only one criteria for teaching the courses, and suggested the board consider other equally important qualifications.

RESPONSE 8: The board agrees with the commenter that the experience requirement could render currently qualified persons ineligible. The board is amending (5) to mirror (4) and allow seven years of active supervising broker experience or five years of experience as a real estate education instructor, or a combination of the two for these instructors.

COMMENT 9: Several commenters supported the amendments to this rule, with the exception of the seven-year experience requirement in (5). The commenters requested the board consider different criteria that would acknowledge the experience of current instructors.

RESPONSE 9: The board agrees with the commenters' concerns and is amending (5) accordingly.

COMMENT 10: Many commenters supported the amendment to extend instructor approval if granted less than three months before the end of the calendar year.

RESPONSE 10: The board appreciates all comments in the rulemaking process.

ARM 24.210.825

COMMENT 11: Several commenters supported the amendments to ARM 24.210.825.

RESPONSE 11: The board appreciates all comments in the rulemaking process.

ARM 24.210.829

COMMENT 12: Many commenters supported the amendment requiring more property management trust accounting continuing education for new property management licensees and the clarification that it must be completed before the first renewal date of the license. Commenters requested the board annually post the schedule and location of the board-approved property management courses.

RESPONSE 12: The board will consider the recommendation to annually post the schedule and location of available property management courses.

COMMENT 13: A commenter noted that should a student pass the state-required exam and become licensed on October 1st, it would be highly unlikely for a trust accounting class to be available before the first renewal date of October 31st. The commenter suggested the board instead require that new licensees take the mandatory four hours of trust accounting within the first nine months of being licensed to avoid potential scheduling problems.

RESPONSE 13: The board agrees with the commenter's recommendation and is amending the rule accordingly.

NEW RULE I

COMMENT 14: Several commenters supported NEW RULE I regarding nonroutine license applications.

RESPONSE 14: The board appreciates all comments in the rulemaking process.

NEW RULE II

COMMENT 15: Several commenters supported adopting NEW RULE II to require that active property managers complete a four-hour property management trust accounting course within 12 months of the rule's effective date. The commenters stated that it is appropriate for the board to take steps to ensure licensees have appropriate training when the board identifies specific areas in real estate transactions or property management where problems may be occurring.

RESPONSE 15: The board appreciates all comments in the rulemaking process.

COMMENT 16: Several commenters stated this rule is confusing and questioned whether it applies to all licensees or only to property manager licensees. The commenters further stated that if it applies to all licensees, they strongly oppose the rule. The commenters asserted that very few real estate licensees engage in property management and even fewer use a trust account, instead utilizing title companies to hold client funds relative to transactions. If the rule applies to all licensees, commenters believed that real estate licensees will be penalized for property manager errors. The commenters suggested the board instead require that licensees doing property management take a trust accounting course.

RESPONSE 16: The board agrees and is amending NEW RULE II to specify its application solely to property management licensees.

COMMENT 17: One commenter could not see how requiring that active property managers complete a four-hour property management trust accounting course would prevent trust account violations by sales and broker associates. The commenter stated that it is fairly common for real estate brokerage companies to use title companies to accept earnest money and closing funds. Further, most sales and broker associates do not handle trust account monies.

RESPONSE 17: The board agrees and is amending NEW RULE II to specify its application solely to property management licensees.

ARM 24.210.615

COMMENT 18: Many commenters supported the repeal of ARM 24.210.615.

RESPONSE 18: The board appreciates all comments in the rulemaking process.

COMMENT 19: One individual commented on ARM 24.210.805 and requested the board issue an opinion statement on the board's authority to discipline a property manager by requiring an accountant as part of their business or having their accounting done by an outside firm.

RESPONSE 19: This comment exceeds the scope of this rulemaking project as the board did not propose any amendments to ARM 24.210.805.

4. The board has amended ARM 24.210.641, 24.210.661, 24.210.666, 24.210.674, and 24.210.825 exactly as proposed.

5. The board has adopted NEW RULE I (24.210.418) exactly as proposed.

6. The board has repealed ARM 24.210.615 exactly as proposed.

7. The board has amended ARM 24.210.677 and 24.210.829 with the following changes, stricken matter interlined, new matter underlined:

24.210.677 CONTINUING REAL ESTATE EDUCATION -- INSTRUCTOR APPROVAL (1) through (4) remain as proposed.

(5) In addition to the requirements of (3), instructors who wish to teach the board-approved supervising broker prelicensing or the supervising broker continuing education course shall have seven years of active licensed experience as a supervising broker or five years as an instructor of real estate education, or a combination of the two.

(6) and (7) remain as proposed.

24.210.829 NEW LICENSEE MANDATORY CONTINUING EDUCATION -- PROPERTY MANAGER (1) All new property management licensees are required to complete 12 hours of property management continuing education by the second renewal date as set by ARM 24.101.413, following their original license issue date. Four of the hours must consist of courses in property management trust accounts and must be taken before the first renewal date following original issuance of the license. In the event there is no course offered by the end of the licensing year, a new licensee must complete the course when the class is next offered unless the time for taking the course is extended for good cause at the board's discretion. After satisfactorily completing their first renewal, property manager licensees may satisfy their continuing education obligations for subsequent years by choosing any continuing education courses approved by the board, whether designated as property management education or not.

8. The board has adopted NEW RULE II (24.210.820) with the following changes, stricken matter interlined, new matter underlined:

NEW RULE II (24.210.820) TRUST ACCOUNT COURSE REQUIREMENT

(1) Except for new licensees as provided in ARM 24.210.829, all active property manager licensees must complete a four-hour property management trust account course as approved by the board within 12 months of the effective date of this rule.

(2) remains as proposed.

BOARD OF REALTY REGULATION
RIC SMITH, BROKER
CHAIRPERSON

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State July 10, 2017.

BEFORE THE BOARD OF MILK CONTROL
AND THE DEPARTMENT OF LIVESTOCK
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION,
Rules I through VII, the amendment of) AMENDMENT, AND REPEAL
ARM 32.24.101 organization of board,)
32.24.401 penalties, 32.24.502 initial)
determination and/or loss of quota)
records, 32.24.503 new producers -)
percentage of milk sales assigned to)
quota milk, 32.24.504 transfer of)
quota, 32.24.505 reassignment of)
quota from the unassigned quota pool)
and readjustment of quota into the)
statewide quota system, 32.24.506)
producer committee, 32.24.507)
request for review, hardship, and)
appeals, 32.24.512 reports and)
records, 32.24.513 computation of)
price for quota milk and excess,)
32.24.514 procedures for pooling of)
returns from pool milk, 32.24.515)
payments to pool dairymen and)
adjustment of accounts, 32.24.523)
marketing of surplus milk to nonpool)
handlers, 32.24.524 required)
utilization of surplus milk, 32.24.525)
procedures, purchase price, and)
terms, and the repeal of ARM)
32.23.101 definitions, 32.23.102)
transactions involving the purchase)
and resale of milk within the state,)
32.23.201 regulation of unfair trade)
practices, 32.23.301 licensee)
assessments, 32.23.302 additional)
producer assessment, 32.23.401)
penalties, 32.24.201 procedural rules,)
32.24.301 pricing rules, 32.24.501)
quota definitions, 32.24.511 pooling)
plan definitions, 32.24.516 proceeds)
and losses for surplus milk in quota)
and excess milk over quota, and)
32.24.520 definitions)

TO: All Concerned Persons

1. On June 9, 2017, the Board of Milk Control (board) and the Department of Livestock (department) published MAR Notice No. 32-17-282 regarding the public hearing on the proposed adoption, amendment and repeal of the above-stated rules at page 732 of the 2017 Montana Administrative Register, Issue Number 11.

2. On July 7, 2017, a public hearing was held on the proposed adoption, amendment, and repeal of the above-stated rules in Helena. The board received no comments or testimony.

3. The board has adopted NEW RULES I (ARM 32.24.110), II (32.24.150), III (32.24.450), IV (32.24.460), V (32.24.470), VI (32.24.480), and VII (32.24.490) exactly as proposed.

4. The board has amended ARM 32.24.101, 32.24.401, 32.24.502, 32.24.503, 32.24.504, 32.24.505, 32.24.506, 32.24.507, 32.24.512, 32.24.513, 32.24.514, 32.24.515, 32.24.523, 32.24.524, and 32.24.525 exactly as proposed.

5. The board has repealed ARM 32.23.101, 32.23.102, 32.23.201, 32.23.301, 32.23.302, 32.23.401, 32.24.201, 32.24.301, 32.24.501, 32.24.511, 32.24.516, and 32.24.520 as proposed.

6. These rule adoptions, amendments, and repeals are effective August 1, 2017.

/s/ W. Scott Mitchell
W. Scott Mitchell
Chair
Board of Milk Control

/s/ Michael S. Honeycutt
Michael S. Honeycutt
Executive Officer
Department of Livestock

/s/ Cinda Young-Eichenfels
Cinda Young-Eichenfels
Rule Reviewer

Certified to the Secretary of State July 10, 2017.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.86.2205 and 37.86.2211)
pertaining to early and periodic)
screening, diagnostic and treatment)
(EPSDT) benefits)

TO: All Concerned Persons

1. On May 26, 2017, the Department of Public Health and Human Services published MAR Notice No. 37-796 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 654 of the 2017 Montana Administrative Register, Issue Number 10.

2. The department has amended the above-stated rules as proposed.

3. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT #1: One comment expressed support for the proposed amendments.

RESPONSE #1: The department thanks the commenter for their support of the rule.

4. The department intends to apply the amendments to ARM 37.86.2205 retroactively to January 1, 2017. The department intends to apply the amendments to ARM 37.86.2211 retroactively to July 1, 2017. A retroactive application of the proposed rules does not result in a negative impact to any affected party.

/s/ Barbara Banchemo
Barbara Banchemo, Attorney
Rule Reviewer

/s/ Marie Matthews for
Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State July 10, 2017.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the repeal of ARM) NOTICE OF REPEAL
42.31.501 and 42.31.507 pertaining)
to the taxation of internet revenue)

TO: All Concerned Persons

1. On June 9, 2017, the Department of Revenue published MAR Notice No. 42-2-970 pertaining to the proposed repeal of the above-stated rules at page 780 of the 2017 Montana Administrative Register, Issue Number 11.

2. The department has repealed the above-stated rules as proposed.

3. No comments or testimony were received.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State July 10, 2017.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee:

- Department of Agriculture;
- Department of Commerce;
- Department of Labor and Industry;
- Department of Livestock;
- Office of the State Auditor and Insurance Commissioner; and
- Office of Economic Development.

Education and Local Government Interim Committee:

- State Board of Education;
- Board of Public Education;
- Board of Regents of Higher Education; and
- Office of Public Instruction.

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

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

- Department of Administration;
- Department of Military Affairs; and
- Office of the Secretary of State.

Environmental Quality Council:

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

Water Policy Interim Committee (where the primary concern is the quality or quantity of water):

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE MONTANA ADMINISTRATIVE REGISTER

Definitions: **Administrative Rules of Montana (ARM)** is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR or Register) is an online publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statutes and rules by the Attorney General (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding register.

Use of the Administrative Rules of Montana (ARM):

- | | |
|---------------|---|
| Known Subject | 1. Consult ARM Topical Index.
Update the rule by checking the accumulative table and the table of contents in the last Montana Administrative Register issued. |
| Statute | 2. Go to cross reference table at end of each number and title which lists MCA section numbers and department corresponding ARM rule numbers. |

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through March 31, 2017. This table includes those rules adopted during the period December 31, 2016, through March 31, 2017, and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through March 31, 2017, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule, and the page number at which the action is published in either the 2016 or 2017 Montana Administrative Register.

To aid the user, the Accumulative Table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

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EXECUTIVE BRANCH APPOINTEES AND VACANCIES

Section 2-15-108, MCA, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees, and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of 2-15-108, MCA, is that the Secretary of State publish monthly in the ***Montana Administrative Register*** a list of appointees and upcoming or current vacancies on those boards and councils.

In this issue, appointments effective in June 2017 appear. Vacancies scheduled to appear from August 1, 2017 through October 31, 2017, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

Each month, the previous month's appointees are printed, and current and upcoming vacancies for the next three months are published.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of July 1, 2017.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

EXECUTIVE BRANCH APPOINTEES FOR JUNE 2017

<u>Appointee</u>	<u>Appointed By</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Public Education			
Mr. Scott M. Stearns Missoula Qualifications (if required): District 1, Democrat	Governor	Andersen	6/23/2017 2/1/2020
State Library Commission			
Ms. Anne Kish Twin Bridges Qualifications (if required): Public Representative	Governor	Reappointed	6/1/2017 6/1/2020
Mrs. Aaron LaFromboise Browning Qualifications (if required): Public Representative	Governor	Reappointed	6/1/2017 6/1/2020
Western Interstate Commission for Higher Education			
Commissioner Clayton Christian Helena Qualifications (if required): Educator engaged in the field of higher education in Montana	Governor	Reappointed	6/24/2017 7/1/2021

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2017 THROUGH OCTOBER 31, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
9-1-1 Advisory Council		
Mr. Geoff Feiss, Helena Qualifications (if required): Montana Telephone Company	Director	9/1/2017
Mr. Chuck Winn, Bozeman Qualifications (if required): Representative of the Montana League of Cities and Towns	Director	9/1/2017
Ms. Lisa Kelly, Kalispell Qualifications (if required): Montana Telephone Company	Director	9/1/2017
Mrs. Kimberly Burdick, Fort Benton Qualifications (if required): Representative of the Montana Association of Public Safety	Director	9/1/2017
Mr. Terry Ferestad, Billings Qualifications (if required): Montana Telephone Company	Director	9/1/2017
Captain Tom Butler, Belgrade Qualifications (if required): Department of Justice	Director	9/1/2017
Ms. Heather Roos, Miles City Qualifications (if required): Public Safety Answering Point Manager serving a population of less than 30,000	Director	9/1/2017
Administrator Delila Bruno, Fort Harrison Qualifications (if required): Representative of the Department of Military Affairs	Director	9/1/2017
Mr. Rick Musson, Laurel Qualifications (if required): Representative of the Montana Association of Chiefs of Police	Director	9/1/2017

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2017 THROUGH OCTOBER 31, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
9-1-1 Advisory Council Cont.		
Ms. Jennie Stapp, Helena Qualifications (if required): State Librarian	Director	9/1/2017
Mr. Ron Baldwin, Helena Qualifications (if required): Department of Administration Designee	Director	9/1/2017
Mr. Kevin Box, Whitehall Qualifications (if required): Montana Emergency Medical Services Association	Director	9/1/2017
Captain Curt Stinson, Helena Qualifications (if required): Montana Association of Chiefs of Police	Governor	9/1/2017
Sheriff Chris Hoffman, Hamilton Qualifications (if required): Representative of the Montana Sheriffs and Peace Officers Association	Director	9/1/2017
Mr. Bill Hunter, Great Falls Qualifications (if required): Public Safety Answering Point Manager serving a population over 30,000	Director	9/1/2017
Chief Leonard Lundby, Great Falls Qualifications (if required): Representative of the Montana Fire Chiefs Association	Director	9/1/2017
Commissioner Gary McDonald, Wolf Point Qualifications (if required): Representative of the Montana Association of Counties	Director	9/1/2017
Chief Greg Megaard, Bozeman Qualifications (if required): Representative of the Montana Fire Chiefs Association	Director	9/1/2017

EXECUTIVE BRANCH VACANCIES – AUGUST 1, 2017 THROUGH OCTOBER 31, 2017

<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Achieving a Better Life Experience (ABLE) Program Oversight Committee		
Mr. Jon Bennion, Helena Qualifications (if required): Experience working on behalf of disabled individuals	Governor	9/1/2017
Board of Alternative Health Care		
Ms. Molly Danison, Missoula Qualifications (if required): Midwife	Governor	9/1/2017
Board of Athletic Trainers		
Mr. Mark Meredith, Bozeman Qualifications (if required): Athletic Trainer employed or retired from a secondary school	Governor	10/1/2017
Ms. Shadra Robison, Billings Qualifications (if required): Public Representative	Governor	10/1/2017
Ms. Janet Trethewey, Havre Qualifications (if required): Member of public not engaged in or directly connected with practice of athletic training	Governor	10/1/2017
Board of Barbers and Cosmetologists		
Ms. Angela Printz, Livingston Qualifications (if required): Cosmetologist	Governor	10/1/2017
Mr. Thayne Orton, Florence Qualifications (if required): Barber	Governor	10/1/2017

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Medical Examiners		
Ms. Carole Erickson, Missoula Qualifications (if required): Public Representative	Governor	9/1/2017
Mr. Dwight Thompson, Harlowton Qualifications (if required): PA Certified	Governor	9/1/2017
Dr. Kristin Spanjian, Billings Qualifications (if required): Doctor of Medicine	Governor	9/1/2017
Ms. Patricia Bollinger, Helena Qualifications (if required): Nutritionist	Governor	9/1/2017
Mr. Charles Farmer, Cut Bank Qualifications (if required): Volunteer Emergency Medical Technician	Governor	9/1/2017
Mrs. Ana Diaz, Billings Qualifications (if required): Public Representative	Governor	9/1/2017
Board of Outfitters		
Mr. Timm Twardoski, Helena Qualifications (if required): Member of the General Public	Governor	10/1/2017
Mr. Hugo Tureck, Coffee Creek Qualifications (if required): Sports person	Governor	10/1/2017

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Outfitters Cont.		
Mr. Grover Bennett Aldrich, Missoula Qualifications (if required): Sports person	Governor	10/1/2017
Mr. John Way, Ennis Qualifications (if required): Outfitter engaged in the fishing and hunting outfitting business	Governor	10/1/2017
Board of Private Security		
Mr. James Thomas, Helena Qualifications (if required): Public Safety Officer Standards and Training Council Representative	Governor	8/1/2017
Ms. Holly Dershem-Bruce, Glendive Qualifications (if required): Public Representative	Governor	8/1/2017
Board of Psychologists		
Representative Linda L. Holden, Valier Qualifications (if required): Public Representative	Governor	9/1/2017
Board of Veterans' Affairs		
Mr. Byron Erickson, Helena Qualifications (if required): US Department of Labor Representative	Governor	8/1/2017
Mr. Clarence Sivertsen, Black Eagle Qualifications (if required): Veteran, Region 3	Governor	8/1/2017

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Board of Veterans' Affairs Cont. Mr. Dan Bernhardt, Helena Qualifications (if required): U.S. Department of Labor Representative	Governor	8/1/2017
Building Codes Council Mr. Rick Hutchinson, Black Eagle Qualifications (if required): Licensed Electrician selected by the State Electrical Board	Governor	10/1/2017
Mr. Mick Wonnacott, Butte Qualifications (if required): Representative from the Building Industry	Governor	10/1/2017
Mr. Allen Lorenz, Helena Qualifications (if required): State Fire Marshall	Governor	10/1/2017
Mr. Ronald E. Brothers, Hamilton Qualifications (if required): Member of the general public who does not hold public office	Governor	10/1/2017
Mr. Ron Bartsch, Montana City Qualifications (if required): Representative of the Home Building Industry	Governor	10/1/2017
Mr. Jason Fitzgerald, Billings Qualifications (if required): Practicing Architect licensed in Montana	Governor	10/1/2017
Mr. Robert Risk, Bozeman Qualifications (if required): County, City, or Town Inspector	Governor	10/1/2017

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Building Codes Council Cont.		
Mr. Sean Smith, Anaconda Qualifications (if required): Licensed Plumber selected by the Board of Plumbers	Governor	10/1/2017
Mr. Josh Wallery, Helena Qualifications (if required): Representative of the Manufactured Housing Industry	Governor	10/1/2017
Mr. Jason Douglas Poston, Missoula Qualifications (if required): Licensed Elevator Mechanic	Governor	10/1/2017
Mr. Matthew Lemert, Livingston Qualifications (if required): Licensed plumber selected by the Board of Plumbers	Governor	10/1/2017
Burial Preservation Board		
Mr. Steve Platt, Helena Qualifications (if required): Montana State Historic Preservation Officer	Governor	9/1/2017
Ms. Marilyn Silva, Miles City Qualifications (if required): Representative of the Public	Governor	9/1/2017
Ms. Skye Gilham, Browning Qualifications (if required): Physical Anthropologist	Governor	9/1/2017
Certification Committee for Developmental Disabilities Professionals		
Ms. Rebecca DeCamara, Helena Qualifications (if required): Representative of the Developmental Disabilities Program	Director	9/1/2017

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
Certification Committee for Developmental Disabilities Professionals Cont.		
Ms. Deborah Swingley, Helena Qualifications (if required): none specified	Director	9/1/2017
Dr. Michelle McCall, Helena Qualifications (if required): Representative of the Developmental Disabilities Program	Director	9/1/2017
Mr. Sam Morgenroth, Helena Qualifications (if required): Chair appointed by the Governor	Governor	9/1/2017
Mr. Sherman Weimer, Miles City Qualifications (if required): none specified	Director	9/1/2017
Historical Society Preservation Review Board		
Ms. Carol Bronson, Great Falls Qualifications (if required): Public Representative	Governor	10/1/2017
Montana Poet Laureate		
Mr. Michael Earl Craig, Livingston Qualifications (if required): none specified	Governor	8/1/2017
Noxious Weed Seed Free Forage Advisory Council		
Mr. Stephen Henry White, Great Falls Qualifications (if required): MSU Agriculture Research Center	Director	9/1/2017

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Noxious Weed Seed Free Forage Advisory Council Cont.		
Mr. James Bouma, Choteau Qualifications (if required): Forage Producer	Director	9/1/2017
Director Ron de Yong, Helena Qualifications (if required): Department of Agriculture	Director	9/1/2017
Ms. Michelle Miller, Billings Qualifications (if required): Forage Pellets Producer	Director	9/1/2017
Ms. Jennifer Cramer, Hysham Qualifications (if required): County Weed District	Director	9/1/2017
Mr. Tom Benson, Pablo Qualifications (if required): Weed District	Director	9/1/2017
Mr. Kehoe Wayman, Ronan Qualifications (if required): Outfitter	Director	9/1/2017
Mr. Mark Siderius, Kalispell Qualifications (if required): Forage Producer	Director	9/1/2017
Mr. Steve Johns, Helena Qualifications (if required): Forage Producer	Director	9/1/2017
Mr. Carter Butori, Dillon Qualifications (if required): Forage Producer	Director	9/1/2017

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Noxious Weed Seed Free Forage Advisory Council Cont.		
Ms. Jane Mangold, Bozeman Qualifications (if required): Montana State University	Director	9/1/2017
Mr. Bob Rangitsch, Ovando Qualifications (if required): Livestock/Agriculture	Director	9/1/2017
Mr. Larry Dorn, Hardin Qualifications (if required): Forage Producer Representative	Governor	9/1/2017
Ms. Michelle Whiteside, Miles City Qualifications (if required): Feed, Pellet, Cube Representative	Governor	9/1/2017
Mr. James Melin, Livingston Qualifications (if required): Forage Producer	Governor	9/17/2017
Ms. Margie Edsall, Sheridan Qualifications (if required): Western Weed District Representative	Governor	9/17/2017
Ms. Jennifer Esp, Broadus Qualifications (if required): Eastern Weed District Representative	Governor	9/17/2017
Mr. Colter Tinsen, Great Falls Qualifications (if required): Forage Pellets Producer	Governor	9/17/2017

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Potato Commodity Advisory Committee		
Mr. Bill Buyan, Sheridan Qualifications (if required): Actively involved in the Potato Industry	Director	9/1/2017
Protect Montana Kids Commission		
Ms. Jani McCall, Billings Qualifications (if required): Public Representative	Governor	10/1/2017
Mr. Scott Darkenwald, Helena Qualifications (if required): Department of Justice Representative	Governor	10/1/2017
Ms. Joyce Funda, Helena Qualifications (if required): CASA or foster parent	Governor	10/1/2017
Ms. Ali Bovingdon, Helena Qualifications (if required): Governor's Office Representative	Governor	10/1/2017
Ms. Leslie Halligan, Missoula Qualifications (if required): District Court Judge	Governor	10/1/2017
Mr. William Hooks, Helena Qualifications (if required): Office of the Public Defender Representative	Governor	10/1/2017
Ms. Sarah Corbally, Helena Qualifications (if required): Department of Public Health and Human Services Representative	Governor	10/1/2017

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Protect Montana Kids Commission Cont.		
Mr. Schylar Baber-Canfield, Butte Qualifications (if required): Organization involved in Child Abuse Representative	Governor	10/1/2017
Ms. Ann Lawrence, Kalispell Qualifications (if required): County Attorney	Governor	10/1/2017
Mr. Matthew Lowy, Missoula Qualifications (if required): Private Attorney	Governor	10/1/2017
Ms. Megan Bailey, Saint Ignatius Qualifications (if required): Tribal Member	Governor	10/1/2017
Mr. Bart Klika, Missoula Qualifications (if required): Having research experience	Governor	10/1/2017
Dr. Tom Strizich, Helena Qualifications (if required): Practicing Pediatrician	Governor	10/1/2017
Ms. Jaci Noonan, Anaconda Qualifications (if required): Public Representative	Governor	10/1/2017
State Rehabilitation Council		
Mr. Michael Woods, Billings Qualifications (if required): Advocacy Community	Governor	10/1/2017

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<u>Board/Current Position Holder</u>	<u>Appointed By</u>	<u>Term End</u>
State Rehabilitation Council Cont.		
Mr. John Senn, Billings Qualifications (if required): Advocacy Community	Governor	10/1/2017
Mr. Rick Heitz, Kalispell Qualifications (if required): Advocacy Community	Governor	10/1/2017
Ms. Amy Capolupo, Missoula Qualifications (if required): Advocacy Community	Governor	10/1/2017
Ms. Annaliese Gibbs, Billings Qualifications (if required): Vocational Rehabilitation Community	Governor	10/1/2017
Mr. Jim Marks, Helena Qualifications (if required): Vocational Rehabilitation Community	Governor	10/1/2017
Ms. Coreen Louise Faulkner, Missoula Qualifications (if required): Advocacy Community	Governor	10/1/2017
Ms. Tiffany Costa, Billings Qualifications (if required): Advocacy Community	Governor	10/1/2017
Ms. Donna Marie Robnett, Frenchtown Qualifications (if required): Advocacy Community	Governor	10/1/2017
Ms. Sharyl Wells, Browning Qualifications (if required): Section 121 Representative	Governor	10/1/2017

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Statewide Interoperability Governing Board		
Atty. Gen. Tim Fox, Helena Qualifications (if required): Attorney General or designee	Governor	10/1/2017
Mr. Geoff Feiss, Helena Qualifications (if required): Representative of Montana's Telecommunications Industry	Governor	10/1/2017
Mr. Kevin Myhre, Lewistown Qualifications (if required): Representative of the Montana League of Cities and Towns	Governor	10/1/2017
Sheriff Leo Dutton, Helena Qualifications (if required): Representative of the Montana Sheriffs and Peace Officers Association	Governor	10/1/2017
Chief Mike Doto, Butte Qualifications (if required): Representative of the Montana State Volunteer Firefighters Association	Governor	10/1/2017
Administrator Delila Bruno, Fort Harrison Qualifications (if required): Representative of the Department of Military Affairs	Governor	10/1/2017
Mr. Jason Smith, Helena Qualifications (if required): Montana Director of Indian Affairs	Governor	10/1/2017
Director Mike Tooley, Helena Qualifications (if required): Montana Department of Transportation Director or designee	Governor	10/1/2017
Captain Patrick Lonergan, Bozeman Qualifications (if required): Representative of the Montana Fire Chiefs Association	Governor	10/1/2017

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Statewide Interoperability Governing Board Cont.		
Mr. Ron Baldwin, Helena Qualifications (if required): Montana Chief Information Officer or designee	Governor	10/1/2017
Commissioner Joe Briggs, Great Falls Qualifications (if required): Representative of the Montana Association of Counties	Governor	10/1/2017
Ms. Siri Smillie, Helena Qualifications (if required): Governor's Office Representative	Governor	10/1/2017
Mr. Kevin Box, Whitehall Qualifications (if required): Representative of the Montana Emergency Medical Services Association	Governor	10/1/2017
Captain Curt Stinson, Helena Qualifications (if required): Representative of the Montana Association of Chiefs of Police	Governor	10/1/2017
Water and Wastewater Operators' Advisory Council		
Mr. Lorren Schlotfeldt, Havre Qualifications (if required): University Faculty Member	Governor	10/16/2017
Ms. Crystal Richards, Billings Qualifications (if required): University Faculty	Governor	10/16/2017
Mr. Eleazer Resurreccion, Havre Qualifications (if required): Faculty of a university or college whose major field is related to water supply systems	Governor	10/16/2017

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Workers' Compensation Court Judge Mr. David Michael Sandler, Kalispell Qualifications (if required): Nominated by the Judicial Nomination Commission	Governor	9/7/2017

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