

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 18

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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 DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 8.94.3725 pertaining to the) PROPOSED AMENDMENT
administration of the 2009-2010)
Federal Community Development)
Block Grant (CDBG) Program)

TO: All Concerned Persons

1. On October 15, 2009, at 1:30 p.m., the Department of Commerce will hold a public hearing in Room 504A of the Park Avenue Building, at Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Commerce 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 Department of Commerce no later than 5:00 p.m. on October 9, 2009, to advise us of the nature of the accommodation that you need. Please contact Audrey Blomquist, Community Development Division, Department of Commerce, 301 South Park Avenue, P.O. Box 200549, Helena, Montana, 59620-0549; telephone (406) 841-2596; fax (406) 841-2878; TDD (406) 841-2702; or e-mail ablomquist@mt.gov.

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

ARM 8.94.3725 INCORPORATION BY REFERENCE OF RULES FOR THE ADMINISTRATION OF THE 2009-2010 CDBG PROGRAM (1) The Department of Commerce adopts and incorporates by reference the Montana Community Development Block Grant Program Federal Fiscal Year (FFY) 2010 Application Guidelines for Housing and Neighborhood Renewal Projects; the Montana Community Development Block Grant Program FFY 2010 Application Guidelines for Public Facilities Projects; the Montana Community Development Block Grant Program FFY 2009 Application Guidelines for Housing and Public Facilities Planning Grants; the FFY 2009 Application Guidelines for the Community Development Block Grant Economic Development Program; the Montana Community Development Block Grant Economic Development Program FFY 2009 Application Guidelines for Planning Projects; the Montana Community Development Block Grant Program FFY 2008 Application Guidelines for the Neighborhood Stabilization Program; and the Montana Community Development Block Grant/Neighborhood Stabilization Program FFY 2010 Grant Administration Manual published by it as rules for the administration of the CDBG and NSP programs.

(2) and (3) remain the same.

AUTH: 90-1-103, MCA
IMP: 90-1-103, MCA

REASON: It is reasonably necessary to amend this rule because the federal regulations governing the state's administration of the FFY 2008, 2009, and 2010 CDBG and NSP programs and 90-1-103, MCA, require the department to adopt rules to implement the program. By this amendment, the FFY 2010 CDBG Grant Administration Manual, primarily a restatement and explanation of existing federal and state statutory and regulatory requirements and additional departmental requirements with which local CDBG and NSP recipients must comply in administering their CDBG and NSP projects, the CDBG Grant Administration Manual is being adopted, with revisions, as the manual for the administration of both CDBG and NSP Grants. The manual includes sample forms and letters, checklists, and explanatory text to help local government officials comply with the variety of requirements that apply to economic development, planning, housing and neighborhood renewal, public facility, and neighborhood stabilization projects.

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: Audrey Blomquist, Community Development Division, Department of Commerce, 301 South Park Avenue, P.O. Box 200549, Helena, Montana, 59620-0549; telephone (406) 841-2596; fax (406) 841-2878; or e-mail ablomquist@mt.gov, and must be received no later than 5:00 p.m., October 23, 2009.

5. Jennifer Olson, Department of Commerce, has been designated to preside over and conduct this hearing.

6. 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 Department of Commerce, 301 South Park Avenue, P.O. Box 200501, Helena, Montana 59620-0501, by fax to (406) 841-2701, by e-mail to lgregg@mt.gov, or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

/s/ KELLY A. CASILLAS
KELLY A. CASILLAS
Rule Reviewer

/s/ ANTHONY J. PREITE
ANTHONY J. PREITE
Director
Department of Commerce

Certified to the Secretary of State September 14, 2009.

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the repeal of) AMENDED NOTICE OF PUBLIC
23.12.602, 23.12.604, and 23.12.606,) HEARING ON PROPOSED REPEAL
concerning the Uniform Fire Code; the) AND AMENDMENT
amendment of ARM 23.12.401 through)
23.12.405, 23.12.407, 23.12.408, and)
23.12.430, concerning fire safety;)
23.12.501, 23.12.502, and 23.12.504,)
concerning fireworks; and 23.12.601,)
23.12.603, and 23.12.605, concerning)
the Uniform Fire Code)

TO: All Concerned Persons

1. On September 10, 2009, the Department of Justice published MAR Notice No. 23-12-212, pertaining to the public hearing on the proposed repeal and amendment of the above-stated rules at page 1535 of the 2009 Montana Administrative Register, Issue No. 17.

2. The Department of Justice 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 department no later than 5:00 p.m. on October 27, 2009, to advise us of the nature of the accommodation that you need. Please contact Kathy Stelling, Department of Justice, 215 North Sanders, P.O. Box 201401, Helena, MT 59620-1401; telephone (406) 444-2026; Montana Relay Service 711; fax (406) 444-3549; or e-mail kstelling@mt.gov.

3. The location of the public hearing has been changed, and the date of the hearing is being extended to give interested persons additional time to review the proposed changes.

4. On November 10, 2009, at 1:00 p.m., the Department of Justice will hold a public hearing at the Fire Prevention and Investigation Section, 2225 Eleventh Avenue, Helena, Montana, to consider the proposed repeal and amendment of the above-stated rules.

5. 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 J. Stuart Segrest, Department of Justice, 215 North Sanders, P.O. Box 201401, Helena, MT 59620-1401; telephone (406) 444-2026; Montana Relay Service 711; fax (406) 444-3549; or e-mail ssegrest@mt.gov, and must be received no later than November 18, 2009.

By: /s/ Steve Bullock
STEVE BULLOCK
Attorney General
Department of Justice

/s/ J. Stuart Segrest
J. STUART SEGREST
Rule Reviewer

Certified to the Secretary of State September 14, 2009.

BEFORE THE BOARD OF MEDICAL EXAMINERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.156.616 registry, 24.156.617)
licenses, 24.156.618 testing)
requirements and the adoption of)
NEW RULES I through IX pertaining)
to registration)

TO: All Concerned Persons

1. On October 20, 2009, at 10:30 a.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana to consider the proposed amendment and adoption 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 Medical Examiners (board) no later than 5:00 p.m., on October 16, 2009, to advise us of the nature of the accommodation that you need. Please contact Jean Branscum, Board of Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2360; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsmed@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: The 2009 Montana Legislature enacted Chapter 385, Laws of 2009 (House Bill 578), an act creating the Montana Health Corps Act which allows retired physicians to provide primary outpatient care to individuals eligible for Medicare or Medicaid. The bill was signed by the Governor on April 28, 2009, and became effective on July 1, 2009. The board is proposing to amend ARM 24.156.616, 24.156.617, and 24.156.618, and adopt New Rules I through IX to coincide with the legislative changes and further implement the Montana Health Corps Act. As well, authority and implementation cites are being amended throughout to accurately reflect all statutes implemented through the rules, to provide the complete sources of the board's rulemaking authority, and to add references to the newly enacted legislation. 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 provide as follows, stricken matter interlined, new matter underlined:

24.156.616 REGISTRY (1) remains the same.

(2) The board will keep a register of all physicians licensed in Montana and who hold a health corps participation registration.

AUTH: 37-3-203, 37-3-802, MCA
IMP: 37-3-205, MCA

REASON: Section 37-3-205, MCA, requires the board to keep a register of board licensees. The board is amending this rule to include in the registry information regarding health corps participants.

24.156.617 ACTIVE AND INACTIVE LICENSE (1) and (2) remain the same.
(3) An active license is required for a physician participating in the Montana health corps.

(3) through 3(a)(ii) remain the same but are renumbered (4) through 4(a)(ii).
(b) remains the same but is renumbered (5).
(4) remains the same but is renumbered (6).

AUTH: 37-1-131, 37-1-141, 37-1-319, 37-3-802, 37-3-804, MCA
IMP: 37-1-141, 37-1-319, 37-3-802, 37-3-804, MCA

24.156.618 TESTING REQUIREMENT (1) remains the same.
(2) A physician seeking to participate in the Montana health corps and holding an active license must pass the special purpose examination given by the Federation of State Medical Boards if the physician has not actively practiced medicine for two or more years preceding the health corps application date.

AUTH: 37-3-203, 37-3-802, MCA
IMP: 37-3-101, 37-3-202, 37-3-802, MCA

5. The proposed new rules provide as follows:

NEW RULE I DEFINITIONS For the purpose of these rules, the following definitions shall apply:

(1) "Board" means the Board of Medical Examiners for the State of Montana, created under 2-15-1731, MCA.

(2) "Montana Health Corps" means the entirety of those retired, but actively licensed Montana physicians authorized to engage in a limited home health care practice with limitations on liability, as created under the Montana Health Corps Act.

(3) "Licensee" means the current holder of an active license.

(4) "Health corps physician" means a physician, as defined in 37-3-102 and 37-6-101, MCA, who holds an active license to practice medicine in Montana, who is retired, and who has applied to participate in the health corps and completed the registration requirements imposed by the board.

(5) "Retired" means no longer maintaining a private, institutional, or governmental practice for the purposes of monetary remuneration within the United States. The board recognizes that occasional work within the United States may be necessary to maintain physician skills. Such occasional locum tenen work for monetary remuneration will not disqualify a physician from "retired" status.

AUTH: 37-1-131, 37-3-203, 37-3-802, MCA
IMP: 37-1-131, 37-3-802, 37-3-804, MCA

NEW RULE II APPLICATION FOR PARTICIPATION IN HEALTH CORPS

(1) An applicant who holds an active license to practice medicine in the State of Montana and who wants to participate in the health corps program shall:

- (a) complete and return a registration form approved by the board, together with accompanying documentation;
- (b) submit a registration fee pursuant to [NEW RULE III]; and
- (c) satisfy all of the requirements set forth in 37-3-804, MCA.

(2) An applicant who does not hold an active license to practice medicine in the State of Montana and wants to participate in the health corps program must submit an application for an active license, in addition to fulfilling the requirements listed above.

AUTH: 37-1-131, 37-3-203, 37-3-802, 37-3-804, MCA
IMP: 37-1-131, 37-3-802, 37-3-804, MCA

NEW RULE III FEES (1) Applicants shall submit the following fees:

- (a) a registration fee of \$25 in the form of a check or money order, payable to the board; and
 - (b) any additional standardized fees as specified in ARM 24.101.403.
- (2) All fees are nonrefundable.

AUTH: 37-1-134, 37-3-203, 37-3-802, 37-3-804, MCA
IMP: 37-1-134, 37-3-804, MCA

REASON: The board is proposing to adopt this rule to set a fee for registering physicians to participate in the Montana Health Corps. The board is required to set licensure fees commensurate with associated costs pursuant to 37-1-134, MCA. The proposed fee will adequately cover the cost of staff verification that health corps physicians meet the requirements of the program. This new fee will affect approximately 10 applicants and result in additional annual revenue of \$250.

NEW RULE IV FAILURE TO COMPLETE APPLICATION AND REGISTRATION (1) Failure of an applicant to submit the required application or registration fee, complete the required form(s), and submit any other additional required materials within one year from the date of receipt of the initial application or registration materials, shall be grounds for the board to discontinue processing the application.

AUTH: 37-1-131, 37-3-203, MCA
IMP: 37-1-131, 37-3-309, 37-3-802, 37-3-804, MCA

NEW RULE V HEALTH CORP PARTICIPATION REGISTRATION (1) The active physician license issued by the board to health corps participants will show

the licensee's registration as a health corps physician, in addition to other information the board deems necessary.

(2) The address shown on the license shall be the address of the licensee, where all correspondence and renewal forms from the board shall be sent during the two years for which the registration is valid, and shall be the address deemed sufficient for purposes of service of process.

AUTH: 37-1-131, 37-3-203, 37-3-802, MCA

IMP: 37-1-131, 37-3-802, 37-3-804, MCA

NEW RULE VI RENEWALS (1) Health corps physicians must renew their registration every two years in conjunction with the licensee's renewal of their active license.

(2) Renewal notices will be sent as specified in ARM 24.101.414.

(3) The provisions of ARM 24.101.408 apply.

AUTH: 37-1-131, 37-3-203, 37-3-802, 37-3-804, MCA

IMP: 37-1-131, 37-1-141, 37-3-802, 37-3-804, MCA

NEW RULE VII SCOPE OF PRACTICE OF HEALTH CORPS

PARTICIPANTS (1) A retired physician who holds an active license to practice medicine in Montana and who is registered with the board as a health corps physician may:

(a) practice medicine by providing primary outpatient care through home healthcare visits to eligible patients; and

(b) engage in a limited scope of practice under a limitation of liability imposed by 37-3-806, MCA.

(2) Health corps physicians must report to the board in writing within 90 days, any denial of hospital privileges, restrictions or limitations of practice, or the initiation of any disciplinary action against the certificate or license to practice medicine by any state or territory, in which the licensee is licensed.

(3) Health corps physicians shall follow the participation guidelines as set forth by the board. Failure to follow participation guidelines may be grounds for discipline.

(4) Health corps physicians shall provide a written disclosure on the limitation on legal liability to patients referred to in the health corps program.

(5) Health corps physicians are subject to each of the grounds for disciplinary action as provided in 37-1-316, MCA, and ARM 24.156.625, in accordance with the procedures set forth in Title 37, chapters 1 and 3, MCA, and the Montana Administrative Procedure Act.

(6) Health corps physicians shall comply with all laws, rules, and regulations governing the maintenance of patient medical records, including patient confidentiality requirements.

(7) Health corps physicians shall notify the board of any change in the licensee's address, as contained on the participation registration, within 30 days of such change.

(8) Health corps physicians shall cooperate in the investigation of any possible grounds for discipline, including revocation or limitation of the license or participation registration, by timely compliance with all inquiries and subpoenas issued by the board for evidence or information. The licensee shall provide, within 21 days of receipt of a written request from the board, clear and legible copies of requested documents, including medical records, which may be related to possible grounds for discipline, including revocation or limitation of a license or participation registration. Failure to timely comply with a board inquiry or subpoena or to provide clear and legible copies of requested records shall be grounds for discipline.

AUTH: 37-1-131, 37-3-203, 37-3-802, 37-3-804, MCA
IMP: 37-1-131, 37-3-310, 37-3-802, 37-3-804, MCA

NEW RULE VIII SANCTIONS (1) Any person who is not properly registered by the board who provides health corps services is subject to criminal prosecution for the unlicensed practice of medicine and/or injunctive or other action authorized in this state to prohibit or penalize continued practice without a license.

(2) This rule does not limit or restrict the board's authority to discipline any Montana licensed physician who violates the Medical Practice Act or who engages in the practice of medicine in any other state.

AUTH: 37-1-131, 37-3-203, MCA
IMP: 37-1-131, 37-3-325, 37-3-807, MCA

NEW RULE IX REFERRALS TO HEALTH CORPS (1) Physicians or health care facilities may refer Medicare or Medicaid patients to the health corps.

(2) Eligible patients may receive primary outpatient health care in their homes from health corps physicians.

AUTH: 37-1-131, 37-3-203, 37-3-802, 37-3-804, 37-3-805, MCA
IMP: 37-3-802, 37-3-805, MCA

6. 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 Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdmed@mt.gov, and must be received no later than 5:00 p.m., October 28, 2009.

7. An electronic copy of this Notice of Public Hearing is available through the department and board's site on the World Wide Web at www.medicalboard.mt.gov. The department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web

site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

8. 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 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 Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsmed@mt.gov, or made by completing a request form at any rules hearing held by the agency.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on May 6, 2009, by regular mail.

10. Anne O'Leary, attorney, has been designated to preside over and conduct this hearing.

BOARD OF MEDICAL EXAMINERS
DR. JAMES UPCHURCH, PHYSICIAN,
CHAIRPERSON

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

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State September 14, 2009

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.171.602 guide or) PROPOSED AMENDMENT AND
professional guide license,) ADOPTION
24.171.604 emergency guide license,)
24.171.2301 unprofessional conduct,)
and the adoption of NEW RULE I)
guide to hunter ratio)

TO: All Concerned Persons

1. On October 16, 2009, at 10:00 a.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana to consider the proposed amendment and adoption 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 Outfitters (board) no later than 5:00 p.m., on October 13, 2009, to advise us of the nature of the accommodation that you need. Please contact Debbie Tomaskie, Board of Outfitters, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2373; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2309; e-mail dlilbsdout@mt.gov.

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

24.171.602 GUIDE OR PROFESSIONAL GUIDE LICENSE (1) through (4) remain the same.

(5) An outfitter may not endorse an application or a license for a guide or professional guide in the same license year that the outfitter sponsors the applicant or licensee for an outfitter-sponsored license issued by the Montana Department of Fish, Wildlife and Parks.

AUTH: 37-1-131, 37-47-201, MCA
IMP: 37-47-101, 37-47-201, 37-47-301, 37-47-303, 37-47-307, 37-47-308,
MCA

REASON: The board determined it is reasonably necessary to amend ARM 24.171.602, 24.171.604, and 24.171.2301 to help prevent the abuse of outfitter-sponsored licenses. Abuse occurs when an outfitter sponsors a client to obtain a hunting license, then endorses that client to acquire a guide license, and then places the client in charge of a group of other clients (usually of the same party) in a "drop

camp" with no designated guide. Abuse also takes place when an outfitter sponsors a person for a hunting license and endorses the person as a guide, who then serves as a guide in exchange for the hunting license. Because this behavior is increasing and becoming the basis for an illegitimate bartering system in which outfitters are paying for guides, the board is proposing the amendments to prevent the inappropriate combination of outfitter-sponsored licenses with guide licenses to avoid the use of designated guides.

24.171.604 EMERGENCY GUIDE LICENSE (1) through (3) remain the same.

(4) An outfitter may not endorse an emergency guide application for a guide applicant in the same license year that the outfitter sponsors the applicant for an outfitter-sponsored license issued by the Montana Department of Fish, Wildlife and Parks.

AUTH: 37-1-131, 37-47-201, MCA
IMP: 37-47-201, 37-47-301, 37-47-303, 37-47-307, MCA

24.171.2301 UNPROFESSIONAL CONDUCT AND MISCONDUCT

(1) through (2)(a) remain the same.

(b) not make agreements with clients concerning monetary consideration or services offered, or collect fees from clients, without the express consent of the supervising outfitter; ~~and~~

(c) not provide services to clients who have not been specifically referred to the guide or professional guide from the endorsing outfitter; ~~and~~

(d) not provide guiding services during the same license year in which an outfitter also sponsors the guide or professional guide for an outfitter-sponsored license issued by the Montana Department of Fish, Wildlife and Parks.

(3) remains the same.

AUTH: 37-1-131, 37-1-319, 37-47-201, MCA
IMP: 37-1-312, 37-1-316, 37-47-201, 37-47-341, MCA

REASON: Implementation cites are being amended to accurately reflect all statutes implemented through the rule.

4. The proposed new rule provides as follows:

NEW RULE I GUIDE TO HUNTER RATIO (1) When a licensed outfitter is providing guiding services to clients that hold outfitter-sponsored B-10 or B-11 licenses, the outfitter shall not exceed a ratio of one guide to four hunters.

AUTH: 37-1-131, 37-47-201, MCA
IMP: 37-1-131, 37-47-201, 37-47-402, MCA

REASON: The board is proposing New Rule I to establish an enforceable standard for the minimum guide-to-hunter ratio when a licensed outfitter provides guiding

services with respect to outfitter-sponsored B-10 or B-11 licenses. The board is proposing this rule to address the growing abuse of outfitter-sponsored licenses and the risk to public safety and welfare by outfitters failing to provide adequate guides.

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 the Board of Outfitters, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2309, or by e-mail to dlibsout@mt.gov, and must be received no later than 5:00 p.m., October 23, 2009.

6. An electronic copy of this Notice of Public Hearing is available through the department and board site on the World Wide Web at www.outfitter.mt.gov. The department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. 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 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 Outfitters, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2309, e-mailed to dlibsout@mt.gov, or made by completing a request form at any rules hearing held by the agency.

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

9. Tyler Moss, attorney, has been designated to preside over and conduct this hearing.

BOARD OF OUTFITTERS
LEE KINSEY, CHAIRPERSON

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

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State September 14, 2009

BEFORE THE BOARD OF OIL AND GAS CONSERVATION AND
THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the amendment ARM) NOTICE OF PUBLIC HEARING ON
36.22.302, 36.22.307, 36.22.1214,) PROPOSED AMENDMENT
36.22.1215, 36.22.1216, and)
36.22.1243 pertaining to oil and gas)
provisions and production)

To: All Concerned Persons

1. On October 15, 2009, at 8:00 a.m., the Department of Natural Resources and Conservation will hold a public hearing at the Petroleum Club Conference Room, Crowne Plaza Hotel, 22nd Floor, North 27th Street, Billings, Montana, to consider the proposed amendment of the above-stated rules.

2. The department 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 no later than 5:00 p.m. on October 9, 2009, to advise us of the nature of the accommodation that you need. Please contact Terri Perrigo, Board of Oil and Gas Conservation, 1625 Eleventh Ave, Helena, MT 59620; telephone (406) 444-6675; fax (406) 444-2453; or e-mail to tperrigo@mt.gov.

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

36.22.302 DEFINITIONS Unless the context otherwise requires, the words defined shall have the following meaning when found in these rules:

(1) through (12) remain the same.

(13) "Completion report" means board report Form No. 4 which is to be submitted to the board in triplicate for all wells drilled as specified in ARM 36.22.1011 and 36.22.1013 and ~~ARM 36.22.1014.~~

(14) "Common source of supply" is synonymous with pool, as defined in 82-11-101(12), MCA.

(15) "Condensate" means the liquid produced by the condensation of a vapor or gas either after it leaves the reservoir or while still in the reservoir. Condensate is often called distillate, drips, or white oil, ~~etc.~~

(16) through (22) remain the same.

~~(23) "Drilling fluid" means any fluid used in the drilling of an oil or gas well to remove, hold, and carry cuttings to the surface; to cool or lubricate a drill bit; to line the bore hole; to control subsurface pressures; to support the weight of the drill pipe or casing; to protect formations; or to transmit hydraulic horsepower to the drill bit.~~

(23) "Drilling fluid" means any fluid used in the drilling of an oil or gas well to:
(a) remove, hold, and carry cuttings to the surface;

- (b) cool or lubricate a drill bit;
- (c) line the bore hole;
- (d) control subsurface pressures;
- (e) support the weight of the drill pipe or casing;
- (f) protect formations; or
- (g) transmit hydraulic horsepower to the drill bit.

(24) "Dry gas" means natural gas obtained from pools that produce gas only, or natural gas obtained that does not contain the heavier fractions that may easily condense under normal atmospheric conditions and that is not casinghead gas.

(25) and (26) remain the same.

(27) "Flow line" means:

(a) ~~means~~ a pipeline used to transfer crude oil, gas, and produced water from the wellhead to production treatment, separation, or storage facilities; and

(b) ~~also means~~ a pipeline used to transfer produced water or other fluids from a production or injection facility to an injection or disposal well. Flow line does not mean a transmission pipeline. ;

~~(c) does not mean a transmission pipeline.~~

(28) through (37) remain the same.

(38) "Hazardous waste" means any waste defined as a hazardous waste in ~~ARM 17.54.303~~ 75-10-403(8)(a), MCA.

(39) through (47) remain the same.

(48) "Oil", as defined in 82-1-111(3), MCA, means crude petroleum oil and other hydrocarbons regardless of gravity that are produced at the wellhead in liquid form by ordinary production methods and that are not the result of condensation of gas before or after it leaves the reservoir. ~~(82-1-111, MCA.)~~

(49) through (52) remain the same.

(53) "Owner", as defined in 82-11-101(9), MCA, means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas the person produced from a pool either for the person or others or for the person or for the person and others, and the term includes all persons holding that authority by or through the person with the right drill. ~~(82-11-101, MCA.)~~

(54) "Perennial watercourse" means a lake, stream, river, or other body of water that flows or retains water continuously throughout the year."

(55) remains the same.

(56) "Person", as defined in 82-11-101(10), MCA, means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind and includes any agency or instrumentality of the state or any governmental subdivision of the state. ~~(82-1-111, MCA.)~~

(57) through (77) remain the same.

(78) "Waste", as defined in 82-11-101(16), MCA, means:

(a) ~~means~~ physical waste, as the term is generally understood in the oil and gas industry;

(b) ~~means~~ the inefficient, excessive, or improper use of, or the unnecessary dissipation of reservoir energy;

(c) ~~means~~ the location, spacing, drilling, equipping, operating, or producing of any oil or gas well(s) or wells in a manner that causes or tends to cause reduction in

the quality of oil or gas ultimately recoverable from a pool under prudent and proper operations or that causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas; and

(d) ~~means the inefficient storing of oil or gas; but~~ Waste does not mean the production of oil or gas from any pool or by any well to the full extent that the well or pool can be produced in accordance with methods designed to result in maximum ultimate recovery, as determined by the board.

~~(e) does not mean the production of oil or gas from any pool or by any well to the full extent that the well or pool can be produced in accordance with methods designed to result in maximum ultimate recovery, as determined by the board. (82-11-101, MCA.)~~

(79) remains the same.

(80) "Well logs" means electrical, radiation, sonic, or other routine logs run by mechanical means in a well and all other logs, surveys, analyses, and reports run or made.

(81) "Well, wildcat or exploratory" means:

(a) ~~means~~ any well drilled for oil or gas outside of a delineated field; or

(b) ~~means~~ a well drilled to a stratum other than one then productive within a delineated field. Well does not mean a stratigraphic well or core hole. ; but

~~(c) does not mean a stratigraphic well or core hole.~~

AUTH: 82-11-111, MCA

IMP: 82-11-111, MCA

36.22.307 ADOPTION OF FORMS (1) The forms hereinafter listed are hereby adopted by reference and made a part of these rules for all purposes, and the same must be used as herein directed in giving notice and in making reports and requests to the board. Copies of printed forms will be supplied by the board on request. Address requests for forms to: Board of Oil and Gas Conservation, 1625 Eleventh Avenue, Helena, Montana, 59620-1601 or 2535 St. Johns Avenue, Billings, Montana, 59102.

(a) through (f) remain the same.

~~(g) Form No. 7~~ Transportation Agency's Monthly Report of Receipts and Disposition of Crude Oil

(h) through (k) remain the same but are renumbered (g) through (j).

~~(l) Form No. 11~~ Reservoir Survey Report and Gas-Oil Ratio

(m) and (n) remain the same but are renumbered (k) and (l).

~~(m) Form No. 14-2A~~ Assignment Agreement

~~(n) Form No. 14-2B~~ Letter of Credit

(o) through (s) remain the same.

~~(t) Form No. 24~~ Irrevocable Standby Letter of Credit

AUTH: 82-11-111, MCA

IMP: 2-4-201, MCA

36.22.1214 SUBSURFACE PRESSURE TESTS (1) If requested by the board, and under the terms and conditions specified, Within 30 days following the

completion of each well in any pool whether such well produces oil or gas or both, the owner of such well shall make a subsurface pressure test on such well and shall report the results thereof to the board on Form No. 11 ~~within 20 days after such test is made~~. Each such well shall remain completely shut in for at least 24 hours prior to the test. The subsurface determination shall be obtained as close as reasonably possibly to the midpoint of the productive section of the reservoir. Further, the board ~~will~~ may require periodic subsurface pressure measurements on a sufficient number of wells in any pool to provide adequate data for establishing MER.

AUTH: 82-11-111, MCA
IMP: 82-11-123, 82-11-124, MCA

36.22.1215 STABILIZED PRODUCTION TEST (1) ~~If requested by the board, and under the terms and conditions specified, Within 60 days~~ following the completion or recompletion of an oil well, the operator shall file with the board's petroleum engineer at its Billings office the results of a stabilized production test of at least 72 hours duration showing the average daily oil production and average daily gas production during the test period.

AUTH: 82-11-111, MCA
IMP: 82-11-123, 82-11-124, MCA

36.22.1216 GAS-OIL RATIO TESTS (1) ~~If requested by the board, and under the terms and conditions specified, Within 30 days~~ following the completion and ~~within 30 days following each~~ recompletion of each well producing oil and either gas or casinghead gas or both, the owner of such well shall make a gas-oil ratio test of such well, ~~and the results of such test shall be reported to the board on Form No. 11 within 20 days after the test is made. Also, thereafter~~ Thereafter, each operator shall make a gas-oil ratio test at such other time or times as the board may hereafter designate, and similarly report the results of each such test within the time specified.

AUTH: 32-11-111, MCA
IMP: 82-11-123, 82-11-124, MCA

36.22.1243 REPORTS FROM TRANSPORTERS, REFINERS, PURCHASERS, AND GASOLINE OR EXTRACTION PLANTS (1) ~~All transporters of crude oil shall make monthly reports to the board on Form No. 7. All refiners of crude oil shall make monthly reports to the board on Form No. 8. All purchasers of gas shall make monthly reports to the board on Form No. 9. All operators of gasoline or other extraction plants shall make monthly reports to the board on Form No. 10. Such forms shall contain all information required therein and shall be filed with the board on or before the last day of each month covering the preceding month.~~

AUTH: 82-11-111, MCA
IMP: 82-11-123, MCA

REASONABLE NECESSITY: The amendments to ARM 36.22.302 and 36.22.307 are reasonably necessary to correct minor grammatical errors, and remove and update obsolete forms and references to the Administrative Rules of Montana and the Montana Code Annotated. The amendments to ARM 36.22.1214, 36.22.1215, and 36.22.1216 are reasonably necessary to eliminate the submission of unnecessary reports, but to maintain the authority of the board to require their submission where it deems it to be necessary. The amendment to ARM 36.22.1243 is reasonably necessary to eliminate the use of, and reference to, Form 7.

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: Terri Perrigo, Board of Oil and Gas Conservation, 1625 Eleventh Ave., Helena, MT 59620; telephone (406) 444-6675; fax (406) 444-2453; or e-mail to tperrigo@mt.gov, and must be received no later than 5:00 p.m., October 22, 2009.

5. Legal counsel for the Board of Oil and Gas Conservation, has been designated to preside over and conduct this hearing.

6. An electronic copy of this Notice of Public Hearing on Proposed Amendment is available through the department's web site at <http://www.dnrc.mt.gov>. The department strives to make the electronic copy of this Notice of Public Hearing on Proposed Amendment conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered.

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 that the person wishes to receive notices regarding conservation districts and resource development, forestry, oil and gas conservation, trust land management, water resources, 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 sent 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.

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

/s/ Mary Sexton
MARY SEXTON
Director

/s/ Tommy Butler
TOMMY BUTLER
Rule Reviewer

Certified to the Secretary of State September 14, 2009.

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

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rules I through V pertaining to state) PROPOSED ADOPTION
matching fund grants to counties for)
crisis intervention, jail diversion,)
involuntary precommitment, and)
short-term inpatient treatment costs)
for individuals with mental illness)

TO: All Concerned Persons

1. On October 15, 2009, at 9:30 a.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, at Helena, Montana, to consider the proposed adoption 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 Department of Public Health and Human Services no later than 5:00 p.m. on October 6, 2009, to advise us of the nature of the accommodation that you need. Please contact Rhonda Lesofski, 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 adopted provide as follows:

RULE I STATEMENT OF PURPOSE AND OBJECTIVES (1) The purpose of this subchapter is to provide state matching funds to county governments for crisis intervention, jail diversion, involuntary precommitment, and short-term inpatient treatment costs for individuals with mental illnesses.

(2) The objectives of this subchapter include:

- (a) the diversion of mentally ill adults from the criminal justice system;
- (b) stabilization of rising precommitment costs incurred by counties during involuntary commitment proceedings;
- (c) development of services to treat individuals with mental illness in their homes and communities; and
- (d) reducing the number of individuals receiving mental health services at Montana State Hospital.

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

IMP: 53-2-201, Chapter 479, Laws of Montana, 2009

RULE II PARTICIPANTS (1) Only a county as defined in ARM 37.2.902 or a group of counties that have collaborated for the purpose established in [RULE I] may submit a grant request for the matching fund grants awarded under this subchapter.

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

IMP: 53-2-201, Chapter 479, Laws of Montana, 2009

RULE III DETERMINING MATCHING FUND GRANT AMOUNTS (1) The department will base matching fund grants awarded under this subchapter upon the following considerations:

(a) The total amount of matching fund grants will not exceed available funding appropriated by the Montana Legislature.

(b) The department may evaluate each county or multicounty plan submitted pursuant to [RULE V] and award matching fund grants based on the likelihood, as determined by the department, that the plan would reduce admissions to the state hospital for emergency and court-ordered detention and evaluation and would ultimately result in cost savings to the state if implemented.

(c) Matching fund grant money will be allocated to counties on a sliding scale that is calculated based upon:

(i) the prior year's county use of Montana State Hospital;

(ii) the number of admissions by county compared to the total admissions to Montana State Hospital; and

(iii) the population of each county compared to the statewide population.

(d) Counties with high utilization of Montana State Hospital will receive a lower match rate for the total amount of funds granted.

(e) Participating counties will be required to match the grant amount with county and other local entity funds or in-kind contributions on a dollar-for-dollar minimum basis.

(2) The department will recalculate the match rate annually, based upon the number of admissions to Montana State Hospital for each county during the previous fiscal year.

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

IMP: 53-2-201, Chapter 479, Laws of Montana, 2009

RULE IV PRO RATA DISTRIBUTION (1) If the amount requested for matching grants exceeds the funding available in the legislative appropriation, the department may allocate funding on a pro rated basis, based on the considerations in [RULE III].

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

IMP: 53-2-201, Chapter 479, Laws of Montana, 2009

RULE V APPLICATION PROCESS (1) A county or group of counties may apply for state matching funds only:

(a) in the manner prescribed by the department; and

(b) in response to a statewide request for applications issued by the

department.

(2) To be considered for state matching funds, the application must include all of the following:

(a) a county or multi-county jail diversion and crisis intervention services strategic plan pursuant to 53-21-138 and 53-21-139, MCA, including:

(i) a plan for community-based or regional emergency treatment;

(ii) a plan for community-based or regional court-ordered detention and examination services; and

(iii) a plan for short-term inpatient treatment.

(b) a detailed plan for how the county and other local entities will collaborate and commit local funds for mental health services for crisis intervention, jail diversion, involuntary precommitment, and short-term inpatient treatment costs:

(i) a county, or group of counties, that includes tribal land must demonstrate collaboration efforts with tribal representatives both on and off reservations.

(c) a detailed budget and accounting of how the county(s) and other local or regional entities will collaborate and commit funds for the activities identified in the proposal; and

(d) a plan for collecting and reporting data and information on county jail diversion, crisis intervention, and short-term inpatient treatment services.

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

IMP: 53-2-201, Chapter 479, Laws of Montana, 2009

4. The Department of Public Health and Human Services (the department) is proposing the adoption of new Rules I, II, III, IV, and V pertaining to state matching fund grants to counties for crisis intervention, jail diversion, involuntary precommitment, and short-term inpatient treatment costs for individuals with mental illnesses. These rules are necessary to implement House Bill 130 (HB 130), 2009 Laws of Montana, Chapter 479. This statute provides for state matching fund grants to counties for crisis intervention, jail diversion, involuntary precommitment, and short-term inpatient treatment costs for individuals with mental illnesses. The statute mandated that the department adopt rules by August 1, 2009 to implement the provisions of the bill. Therefore, the department intends to adopt the rules retroactively to August 1, 2009.

The proposed new rules are intended to reflect the requirements of the statute, including a sliding match rate schedule that is calculated based upon the historical county use of Montana State Hospital, the number of commitments by county compared to the total commitments, and the population of each county compared to statewide population. Furthermore, the statute directed the department to create a sliding scale so that counties with high utilization would be "receiving a lower percentage of matching funds".

The proposed new rules are intended to broadly define the process and the manner in which a county or group of counties may apply for a state matching funds granted under the legislation. To be considered, the application must include a county or multi-county jail diversion and crisis intervention services strategic plan, a detailed

plan for how the county and other local entities will collaborate and commit local funds, and a plan for the collection and reporting of data and information.

The proposed new rules are required by statute to implement a new statewide matching funds grant program. The statute specifies the terms and considerations of distribution. Therefore, the department did not consider alternative methods of distribution.

A summary of each proposed rule is set forth below:

Rule I

This proposed rule contains the purpose and objectives of the state matching funds grants to counties for crisis intervention, jail diversion, involuntary precommitment, and short-term inpatient treatment costs for individuals with mental illnesses. The department drew the proposed purpose and objectives from the preamble of the statute, that will not be codified. The department determined that the purpose and objectives should be stated in the rules to make them easier for the public to access. It should also make it easier for the counties to prepare a grant application.

Rule II

This rule contains the policy that a county is the only entity that may participate in the state matching fund grants issued under these proposed rules. A cross-reference to an existing department rule defining a county as the Board of County Commissioners is included for clarity.

Rule III

This rule contains the proposed considerations upon which the department would determine the amount of each state matching funds grant under these rules. Most of the criteria are expressly stated in the statute and the remaining criteria are implicit. The department is proposing a minimum dollar-for-dollar county match. The department believes the statute allows funds from "other local entities" such as hospitals and other for profit and nonprofit organizations to be considered part of the match. The department is proposing that in-kind contributions, such as the use of county and other local entity services and facilities be considered in calculating the county's share. This would allow counties with limited funds to participate in the grants when they otherwise could not.

Rule IV

The department is proposing new Rule IV to address the potential for overwhelming county interest in the grants. If a distribution of funds determined under the criteria proposed in new Rule II exceeded the amount appropriated for purposes of these rules, the department would be able to distribute the available funds on a pro rata basis, so that all eligible counties would receive a share.

Rule V

The department is proposing this rule containing the application process. The requirements are all drawn from the statute, but the sequence of events is the department's proposal. The department did not include membership in a statewide insurance pool or implementation of a suicide prevention program as conditions for receiving a state matching funds grant under these proposed rules. Neither an insurance pool nor a suicide prevention program was in existence at the time of this notice. Therefore, the department intends to add those requirements in future rulemaking notices when such resources become available to counties.

Entities Affected

There are 56 counties in the state of Montana that could be affected by the proposed new rules. Under the terms of the statute, no other entities may participate in the state matching funds grant program for crisis intervention, jail diversion, involuntary precommitment, and short-term inpatient treatment costs for individuals with mental illnesses.

Fiscal Effect

The fiscal effect of the proposed new rules will be limited to the funds appropriated by the 2009 Montana Legislature for the purpose of state matching fund grants to counties for crisis intervention, jail diversion, involuntary precommitment, and short-term inpatient treatment costs for individuals with mental illnesses. The total amount of state funds for state fiscal year (SFY) 2010 is \$1,240,866 and for SFY 2011 is \$1,239,454.

5. The department intends to apply the proposed new rules retroactively to August 1, 2009. In the event the proposed new rules are adopted retroactively there would be no negative effects on counties or individuals.

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: Rhonda Lesofski, 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., October 22, 2009.

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. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by letter on August 5, 2009, sent postage prepaid via USPS.

/s/ John Koch
Rule Reviewer

/s/ Anna Whiting Sorrell
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State September 14, 2009.

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

In the matter of the adoption of New	)	NOTICE OF PUBLIC HEARING ON
Rules I, II, and III and the amendment	)	PROPOSED ADOPTION AND
of ARM 37.87.1303, 37.87.1305,	)	AMENDMENT
37.87.1306, 37.87.1307, 37.87.1321,)	
37.87.1323, 37.87.1325, 37.87.1331,)	
37.87.1333, 37.87.1335, 37.87.1338,)	
37.87.1339, 37.87.1340, 37.87.1341,)	
37.87.1342, and 37.87.1343)	
pertaining to home and community-)	
based services (HCBS) for youth with)	
serious emotional disturbance (SED))	

TO: All Concerned Persons

1. On October 15, 2009, at 2:00 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 and 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 Department of Public Health and Human Services no later than 5:00 p.m. on October 6, 2009, to advise us of the nature of the accommodation that you need. Please contact Rhonda Lesofski, 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 adopted provide as follows:

RULE I HOME AND COMMUNITY-BASED SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE : FAMILY SUPPORT SPECIALIST SERVICES (1) Family support specialist services provide support and interventions to parents and youth, under the guidance of the home-based therapist. These services may include:

- (a) assisting the therapist in family therapy by providing feedback to the in-home therapist about observable family dynamics;
- (b) providing education to parents regarding their child's mental illness;
- (c) coaching, supporting, and encouraging parenting techniques learned through parenting classes and/or family therapy;
- (d) providing, as necessary, parenting skills specific to the child;

- (e) participating in family activities in order to assist parents in applying specific parenting methods in order to change family dynamics;
 - (f) working with youth to develop wellness recovery tools such as a wellness recovery action plan tool kit; and
 - (g) serving as a member of the crisis intervention team.
- (2) Family support specialist services are provided by appropriate community agencies with the capacity to offer this service to parent or legal guardians of youth with serious emotional disturbance (SED).
- (3) The provider of family support specialists must:
- (a) ensure that its employees providing family support specialist services have a Bachelor's degree in human services;
 - (b) be knowledgeable about family systems and dynamics;
 - (c) have three years experience working with youth with SED and their families;
 - (d) provide supervision of family support specialists by a licensed mental health professional (MHP); and
 - (e) ensure that any employee providing family support services has attended a wraparound facilitation training sanctioned by the department or has been trained by someone within the community agency who has attended a wraparound facilitation training sanctioned by the department.
- (4) A family support specialist may be a licensed mental health professional in the state of Montana that includes one of the following:
- (a) licensed clinical professional counselor;
 - (b) licensed clinical social worker; or
 - (c) licensed clinical psychologist.
- (5) A family support specialist who is also a licensed mental health professional cannot provide any other waiver services or state plan services for the youth.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA
IMP: 53-6-402, MCA

RULE II HOME AND COMMUNITY-BASED SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: CAREGIVER PEER-TO-PEER SUPPORT SPECIALIST SERVICES

(1) Caregiver peer-to-peer support services offer and promote support to the parent/guardian of the youth with SED. The services are geared toward promoting self-empowerment of the parent, enhancing community living skills and developing natural supports. These services include:

- (a) empowering parents to make informed independent choices in order to develop a network for information and support from others;
- (b) coaching parents in developing systems advocacy skills in order to take a proactive role in their youth's treatment and to obtain information and advocate with the school system; and
- (c) assisting parents in developing supports including formal and informal community supports.

(2) Caregiver peer-to-peer support services are provided by appropriate community agencies with the capacity to offer this service to the parent/guardian of the youth with SED.

(3) The provider of caregiver peer-to-peer support specialist services must:

(a) ensure that any employee providing caregiver peer-to-peer services is a family member who has cared for a youth with SED while the youth was receiving services in the children's mental health system. The person must have experience in the direct day-to-day care of a youth with SED;

(b) verify the youth is currently not enrolled as a participant in the Home and Community-Based Services Program for Youth with SED;

(c) be knowledgeable of the children's mental health system as well as about other community resources; and

(d) ensure that any employee providing caregiver peer-to-peer services has attended a wraparound facilitation training sanctioned by the department or has been trained by someone within the community agency who has attended a wraparound facilitation training sanctioned by the department.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA

IMP: 53-6-402, MCA

RULE III HOME AND COMMUNITY-BASED SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: WRAPAROUND FACILITATION SERVICES

(1) Wraparound facilitation services are comprehensive services comprised of a variety of specific tasks and activities designed to carry out the wraparound process. These tasks include:

(a) assembling the wraparound team;

(b) facilitating plan of care meetings;

(c) working with the department in identifying providers of services and other community resources to meet family and youth needs;

(d) making necessary referrals for youth;

(e) documenting and maintaining all information regarding the plan of care and the cost plan, including revisions;

(f) presenting plan of care and cost plans to the plan manager for approval;

(g) providing copies of the plan of care to the youth and family/guardian;

(h) monitoring the implementation of the plan of care;

(i) maintaining communication between all wraparound team members;

(j) consulting with family and other team member to ensure the services the youth and family are receiving continue to meet the youth's needs;

(k) educating new members to the wraparound process; and

(l) maintaining team cohesiveness.

(2) The wraparound facilitating services may be provided by a licensed mental health professional in the state of Montana that includes one of the following:

(a) licensed clinical professional counselor;

(b) licensed clinical social worker; or

(c) licensed clinical psychologist.

(3) A wraparound facilitator who is a licensed mental health professional cannot provide any other waiver services or state plan services for the youth they are facilitating.

(4) The licensed mental health professional must have attended the wraparound facilitation training sanctioned by the department and is either a certified wraparound facilitator or is working towards certification.

(5) A community agency that employs a wraparound facilitator must:

(a) ensure that the wraparound facilitator is working under the supervision of a licensed mental health professional;

(b) ensure that the wraparound facilitator has completed the wraparound facilitation training sanctioned by the department;

(c) ensure all wraparound facilitators within the community agency are certified wraparound facilitators or working toward certification; and

(d) document they have provided freedom of choice for all other waiver and state plan services to all waiver enrollees.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA

IMP: 53-6-402, MCA

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

37.87.1303 HOME AND COMMUNITY-BASED SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: FEDERAL AUTHORIZATION AND AUTHORITY OF STATE TO ADMINISTER PROGRAM (1) The U.S. Department of Health and Human Services (HHS) has provided a grant to the Montana Department of Public Health and Human Services (department), under Section 6063 of the Deficit Reduction Act of 2005, that allows Montana to submit to the Centers for Medicare and Medicaid Services (CMS) a proposal to establish a program of Medicaid funded home and community-based services for youth who have serious emotional disturbance. That proposal has been presented to and approved by CMS. The purpose of this program is to avoid institutionalizing youth with serious emotional disturbance in residential treatment facilities. Institutionalization is avoided through the provision of mental health services and other services that support and treat those youth while residing with their families and receiving mental health treatment in the community.

(2) In accordance with the state and federal statutes and rules generally governing the provision of Medicaid funded home and community-based services and any federal-state agreements specifically governing the provision of the Medicaid funded home and community-based services to be delivered through this program, and within the fiscal limitations of the funding appropriated and available for the program, the department may determine within its discretion the following features of the program:

(a) through (3) remain the same.

(4) The department has received federal approval to waive statewide coverage in the provision of program services. Program services may only be

delivered in the following service areas for which federal approval of coverage has been received:

(a) remains the same.

(b) Missoula and Ravalli Counties, implementation date of August 1, 2009.

(5) In each of the service areas specified in (4)(a) of this rule, no more than 20 service opportunities may be made available at any time. In the service area specified in (4)(b) of this rule, no more than 30 service opportunities may be made available at any time.

(6) remains the same.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA

IMP: 53-6-402, MCA

37.87.1305 HOME AND COMMUNITY-BASED SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: ELIGIBILITY FOR PROGRAM

(1) and (2) remain the same.

(3) A youth is eligible to be considered for enrollment in the program if:

(a) and (b) remain the same.

(c) the youth requires the level of care, as determined through the certificate of need process, for a psychiatric residential treatment facility in accordance with ~~ARM 37.88.1416~~ 37.87.1216;

(d) and (e) remain the same.

(f) the youth meets the clinical criteria of serious emotional disturbance as defined at ~~ARM 37.86.3702~~ 37.87.303;

(g) through (j) remain the same.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA

IMP: 53-6-402, MCA

37.87.1306 HOME AND COMMUNITY-BASED SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: SELECTION FOR PLACEMENT

(1) through (3)(j) remain the same.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA

IMP: 53-6-402, MCA

37.87.1307 HOME AND COMMUNITY-BASED SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: LOSS OF A SERVICE AND DISENROLLMENT (1) through (1)(d) remain the same.

(2) A youth enrolled in the program may be terminated from the program by the department for the following reasons:

(a) through (i) remain the same.

(j) the youth no longer meets the clinical criteria of serious emotional disturbance as defined at ~~ARM 37.86.3702~~ 37.87.303;

(k) remains the same.

(l) the youth has attained age ~~17~~ 18; or

(m) remains the same.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA
IMP: 53-6-402, MCA

37.87.1321 HOME AND COMMUNITY-BASED SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: THE PROVISION OF SERVICES

(1) through (2)(g) remain the same.

(3) The following services, as defined in these rules, may be provided through the program:

(a) through (d) remain the same.

(e) nonmedical transportation; and

(f) respite care;

(g) family support specialist services;

(h) caregiver peer-to-peer support specialist services; and

(i) wraparound facilitation services.

(4) through (5) remain the same.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA
IMP: 53-6-402, MCA

37.87.1323 HOME AND COMMUNITY-BASED SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE AND PLANS OF CARE: PLAN MANAGEMENT (1) remains the same.

(2) Plan management is the responsibility of the ~~plan manager who is an employee of the department~~ wraparound facilitator.

(3) Upon the youth's initial enrollment in the program, the plan of care is developed by the ~~plan manager~~ wraparound facilitator, in collaboration with the plan manager, who is an employee of the department, the youth, and the youth's parent(s) or responsible caregiver having physical custody, appropriate health care professionals, and others who treat or have knowledge of the youth's mental health and related needs.

(4) through (7) remain the same.

(8) The wraparound facilitator and/or department must provide a copy of the plan to the youth and the youth's family.

(9) remains the same.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA
IMP: 53-6-402, MCA

37.87.1325 HOME AND COMMUNITY-BASED SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: COST OF PLAN OF CARE

(1) through (4) remain the same.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA
IMP: 53-6-402, MCA

37.87.1331 HOME AND COMMUNITY-BASED SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: PROVIDER REQUIREMENTS

(1) through (2) remain the same.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA

IMP: 53-6-402, MCA

37.87.1333 HOME AND COMMUNITY-BASED SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: REIMBURSEMENT (1) remains the same.

(2) Program services are reimbursed at the lower of the following:

(a) remains the same.

(b) the fees stated in the program's ~~Chart of Service Reimbursement Rates and Procedures~~ Psychiatric Residential Treatment Facility Home and Community-Based Services Waiver for Youth with Serious Emotional Disturbance Provider Policy Manual dated August 2009. The department adopts and incorporates by reference the ~~fee schedule for home and community services for youth with serious emotional disturbance in the department's Chart of Service Reimbursement Rates and Procedures for Youth with Serious Emotional Disturbance dated October 1, 2007 and published by the department. A copy of the chart provider policy manual~~ which may be obtained through the Department of Public Health and Human Services, Health Resources Division, Children's Mental Health Bureau, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(3) and (4) remain the same.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA

IMP: 53-6-402, MCA

37.87.1335 HOME AND COMMUNITY-BASED SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: NOTICE AND FAIR HEARING

(1) through (3) remain the same.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA

IMP: 53-6-402, MCA

37.87.1338 HOME AND COMMUNITY-BASED SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: CONSULTATIVE CLINICAL AND THERAPEUTIC SERVICES, REQUIREMENTS (1) through (4) remain the same.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA

IMP: 53-6-402, MCA

37.87.1339 HOME AND COMMUNITY-BASED SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: CUSTOMIZED GOODS AND SERVICES, REQUIREMENTS (1) Customized goods and services as a program service allows for the purchase as a program service of services or goods not typically reimbursed by Medicaid. These customized goods and services are used

by the youth to facilitate access to supports designed to improve and maintain the youth in the community.

(2) through (2)(c) remain the same.

(3) Customized goods and services must be prior authorized and are limited in expenditure to ~~\$200~~ \$1,000 for each annual period beginning with a youth's most recent date of enrollment into the waiver.

(4) and (5) remain the same.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA

IMP: 53-6-402, MCA

37.87.1340 HOME AND COMMUNITY-BASED SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: EDUCATION AND SUPPORT SERVICES, REQUIREMENTS (1) through (4) remain the same.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA

IMP: 53-6-402, MCA

37.87.1341 HOME AND COMMUNITY-BASED SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: HOME-BASED THERAPY SERVICES, REQUIREMENTS (1) through (2)(e) remain the same.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA

IMP: 53-6-402, MCA

37.87.1342 HOME AND COMMUNITY-BASED SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: NONMEDICAL TRANSPORTATION SERVICES (1) through (4) remain the same.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA

IMP: 53-6-402, MCA

37.87.1343 HOME AND COMMUNITY-BASED SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: RESPITE CARE SERVICES (1) through (4)(e) remain the same.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA

IMP: 53-6-402, MCA

5. The Department of Public Health and Human Services (the department) is proposing the adoption of new Rules I, II, and III and the amendment of ARM 37.87.1303, 37.87.1305, 37.87.1307, 37.87.1321, 37.87.1323, 37.87.1333, and 37.87.1339, pertaining to Medicaid childrens' mental health waiver services authorized under section 1915(c) of the Social Security Act. The proposed new rules and amendments are necessary to add Missoula and Ravalli Counties as areas where home and community-based services (HCBS) for youth with serious emotional disturbance (SED) are available; to increase the maximum age for

participation in the program to 18; to add family support specialist services, wraparound facilitation, and caregiver peer-to-peer support specialist services to the spectrum of HCBS for youth with SED; to increase the spending limit for customized goods and services; and to reference the fees stated in the program's Psychiatric Residential Treatment Facility Home and Community-Based Services Waiver for Youth with Serious Emotional Disturbance Provider Policy Manual dated August 2009.

The department is taking this opportunity to update cross-references and to make terminology consistent throughout the subchapter. The department is proposing the amendment of ARM 37.87.1306, 37.87.1325, 37.87.1331, 37.87.1335, 37.87.1338, 37.87.1340, 37.87.1341, 37.87.1342, and 37.87.1343 by changing the word "COMMUNITY" to "COMMUNITY-BASED" in each rule title.

The proposed new rules and amendments are described in detail below.

Rules I, II, and III

Since October 1, 2007, the department has operated a program of Medicaid funded home and community-based services for youth who have SED. This program is authorized by the Centers for Medicare and Medicaid Services (CMS), the federal agency responsible for administering the Medicaid Medical Assistance program, under the authority of Section 6063 of the Deficit Reduction Act of 2005 (DRA). The department applied for and was awarded a grant for this purpose by CMS.

The department is proposing three new rules that would add three additional services to HCBS for youth with SED. Rule I would add family support specialist services. Rule II would add caregiver peer-to-peer support services, and Rule III would add wraparound facilitation services. The experience of Medicaid waiver programs in other states with these services has been positive for youth receiving the services.

These proposed rules would specify the requirements for new services that may be obtained and paid for through HCBS for youth with SED. These are recognized services provided to youth and families in other states with the same waiver. These services, as proposed, would allow for Medicaid coverage not available through the existing standard set of mental health services funded with Medicaid monies. They are designed to enhance the opportunities of youth in the program to have better outcomes and to remain in their homes and communities.

ARM 37.87.1303

The amendments to this rule governing HCBS for youth with SED are necessary to implement federal authorization to administer the Medicaid Waiver program in Missoula and Ravalli Counties as of August 1, 2009. Addition of this service area will increase the service opportunities to youth and their families in this area. The proposed addition of this service area is made possible by a DRA grant conditioned

on expansion of the service area. The department chose this alternative because it wanted to increase HCBS opportunities to youth in more counties.

ARM 37.87.1305

The department is proposing an amendment to this rule governing eligibility to allow enrollment in the program up to a youth's 18th birthday. This will allow enrolled individuals to receive waiver services until they are old enough to qualify for adult mental health services. The existing rule creates the potential for a one-year gap in services prior to a youth's 18th birthday. The department chose this alternative after meeting with individuals and providers in Yellowstone County regarding the waiver program in that county.

The department is taking this opportunity to update two obsolete cross-references in this rule.

ARM 37.87.1307

The department is proposing an amendment to the enrollment termination criteria that would raise the age of eligibility to 18. This would make this rule consistent with the amendments proposed for ARM 37.87.1305. For more details please see the discussion of amendments to ARM 37.87.1305 above.

The department is taking this opportunity to update an obsolete cross reference in this rule.

ARM 37.87.1321

The department is proposing an amendment to this rule that would add family support specialist services, caregiver peer-to-peer support specialist services, and wraparound facilitation services to the list of services available through the Home and Community-Based Waiver Services Program for Youth with SED. This would make it consistent with proposed new Rules I, II, and III. For more details please see the discussion of Rules I, II, and III above.

ARM 37.87.1323

The department is proposing amendments to this rule that would make a wraparound facilitator responsible for management of an individual's plan of care. This function is currently being performed by the plan manager who is an employee of the department. The plan of care would be developed by the wraparound facilitator in collaboration with the plan manager, the youth and the youth's parent(s) or caregiver, appropriate health care professionals, and others who treat or have knowledge of the youth's mental health and related needs.

ARM 37.87.1333

The department is proposing an amendment to this rule that would adopt and incorporate by reference an updated "fee schedule" reflecting the changes proposed in this notice. The name of the fee schedule has been changed to the "Psychiatric Residential Treatment Facility Home and Community-Based Services Waiver for Youth with Serious Emotional Disturbance Provider Policy Manual" (manual) and is dated August 2009. A copy of the manual can be obtained by writing the department's Children's Mental Health Bureau, 1400 Broadway, Room A-113, Helena, MT 58620 or by visiting the department's web site, <http://www.dphhs.mt.gov/mentalhealth/children/>

No substantive changes to rates of provider reimbursement are intended, except for addition of the three new services.

ARM 37.87.1339

The department is proposing an amendment to this rule that would increase the limit on expenditures for customized goods and services for youths under the HCBS waiver. Recommendations from the youth and families receiving these services in Yellowstone County indicate that the limit of \$200 is too restrictive. Consequently, the department is proposing a limit of \$1,000 to cover the cost of reasonable customized goods and services while managing the HCBS Waiver program in a fiscally responsible manner.

Fiscal effect

The department expects no increase or decrease in the cost of benefits for recipients of HCBS waiver services and no overall change in reimbursement levels for providers. Budget projections indicate no increases or decreases in federal or state expenditures should be expected as a result of the new rules and amendments proposed in this notice.

Benefit effects

The department does not expect the changes proposed in this notice to affect the overall level of mental health services Medicaid eligible youths would receive. However, the department expects outcomes to improve for youth participating in the HCBS Waiver program.

Entities affected

There are at least three mental health centers plus numerous mental health providers in Missoula and Ravalli Counties eligible to provide HCBS mental health waiver services and approximately 35 to 50 youth may be eligible for those services. All could be affected by the proposed new rules and amendments.

6. The department intends the rule amendments to be applied retroactively to August 1, 2009. No negative effects on providers or recipients are anticipated as a

result of a retroactive application of this proposal.

7. 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: Rhonda Lesofski, 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., October 22, 2009.

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

9. 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 7 above or may be made by completing a request form at any rules hearing held by the department.

10. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

/s/ John Koch
Rule Reviewer

/s/ Anna Whiting Sorrell
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State September 14, 2009.

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

In the matter of the adoption of New) NOTICE OF PROPOSED
Rule I and the amendment of ARM) ADOPTION AND AMENDMENT
37.40.405 pertaining to Medicaid)
reimbursement for swing-bed hospital) NO PUBLIC HEARING
services) CONTEMPLATED

TO: All Concerned Persons

1. On October 24, 2009, the Department of Public Health and Human Services proposes to adopt and amend 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 Department of Public Health and Human Services no later than 5:00 p.m. on October 16, 2009, to advise us of the nature of the accommodation that you need. Please contact Gwen Knight, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena MT 59604-4210; telephone (406) 444-9503; fax (406) 444-1970; or e-mail dphhslegal@mt.gov.

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

RULE I 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 January 1, 2010 through December 31, 2010, swing-bed hospitals must report to the department actual hourly wage and benefit rates paid for all direct care and ancillary services workers or the lump sum amounts paid for all direct care and ancillary services workers that will receive the benefit of a direct care and ancillary workers' wage and benefit increase.

(2) The department will use the reported data for the purpose of comparing types and rates of payment for comparable services and for tracking distribution of direct care wage funds to designated workers.

(3) The department will pay Medicaid certified swing-bed hospitals located in Montana, in accordance with this rule, lump sum payments in addition to the reimbursement rate to be used only for wage and benefit increases or lump sum payments for direct care or ancillary services workers in swing-bed hospitals.

(a) The department will determine lump sum payments commencing January 1, 2010, and again 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) To receive the direct care or ancillary services workers' lump sum payment, a swing-bed hospital must submit:

(i) a request to the department stating how the direct care and ancillary services workers' lump sum payment will be spent in the facility in compliance with all statutory requirements; and

(ii) all of the information required on a form developed by the department in order to continue to receive subsequent lump sum payment amounts for the entire rate year.

(c) The form for wage and benefit increases will request information including but not limited to:

(i) the number by category of each direct care and ancillary services workers that will receive the benefit of the increased funds, if these funds will be distributed in the form of a wage increase;

(ii) the actual per hour rate of pay before benefits and before the direct care wage increase has been implemented for each worker that will receive the benefit of the increased funds;

(iii) the projected per hour rate of pay with benefits after the direct wage increase has been implemented;

(iv) the number of workers receiving a wage or benefit increase by category of worker, effective date of implementation of the increase in wage and benefit; and

(v) the number of projected hours to be worked in the budget period.

(d) If these funds will be used for the purpose of providing lump sum payments such as bonuses, stipends, or other payment types to direct care and ancillary services workers in swing-bed hospitals, the form will request information including, but not limited to:

(i) the number by category of each direct care and ancillary services worker that will receive the benefit of the increased funds;

(ii) the type and actual amount of lump sum payment to be provided for each worker that will receive the benefit of the lump sum funding;

(iii) the breakdown of the lump sum payment by the amount that represents benefits and the direct payment to workers by category of worker; and

(iv) the effective date of implementation of the lump sum benefit.

(e) A facility that does not submit a qualifying request for use of the funds distributed under (2), that includes all of the information requested by the department, within the time established by the department, or a facility that does not wish to participate in this additional funding amount shall not be entitled to their share of the funds available for wage and benefit increases or lump sum payments for direct care and ancillary services workers.

(4) A facility that receives funds under this rule must maintain appropriate records documenting the expenditure of the funds. This documentation must be maintained and made available to authorized governmental entities and their agents to the same extent as other required records and documentation under applicable Medicaid record requirements, including, but not limited to the provisions of ARM 37.40.345, 37.40.346, and 37.85.414.

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

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

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

37.40.405 SWING-BED HOSPITALS, SPECIAL SERVICE REQUIREMENTS

(1) Before admitting a ~~an~~ Medicaid recipient to a swing-bed, the swing-bed hospital must meet all of the following requirements:

(a) the hospital must obtain a preadmission screening ~~prescreening by a department long term care specialist~~ to determine the level of care required by the patient's medical condition. Medicaid will not reimburse a provider for swing-bed hospital services provided to a ~~an~~ Medicaid recipient admitted to a swing-bed unless the recipient meets the nursing facility level of care requirements specified in ARM 37.40.202 and 37.40.205. The swing-bed hospital must ensure that form DPHHS-SLTC-61, "screening notification", is completed by the department preadmission screening ~~prescreening~~ team to document the level of care determination.

(b) through (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, 53-6-141, MCA

5. The Department of Public Health and Human Services (the department) is proposing the adoption of new Rule I and the amendment of ARM 37.40.405 pertaining to Medicaid reimbursement for swing-bed hospital services. The amendments are necessary to implement funding to allow wage increases for swing-bed hospital direct care and ancillary services workers. House Bill 645, enrolled as Chapter 489, Laws of Montana 2009 and intended to implement federal stimulus funding from the American Recovery and Reimbursement Act provides an appropriation for a one-time direct care and ancillary services worker wage increase for employees of swing-bed hospitals. The amendments proposed in this notice would result in a one time lump sum payment which will be in January 2010 to enrolled Medicaid swing-bed hospitals for direct care and ancillary services staff for the 2011 biennium only.

The department is taking this opportunity to incorporate terminology changes and to update the rules where necessary to provide information and to make the rules more understandable where appropriate.

The proposed new rule and amendments are described below.

Rule I

This rule contains the department's proposal for implementing a one time lump sum payment to swing-bed hospitals to be used only for wage and benefit increases for direct care and ancillary services workers. All swing-bed hospitals enrolled as Medicaid providers would be required to report to the department actual hourly wage and benefit rates paid for all direct care and ancillary services workers or the lump sum amounts paid for all direct care and ancillary services workers for the period

January 1, 2010 through December 31, 2010. The department will identify the reporting form to be used by providers in order to receive this additional funding for wages. The form will identify which workers will receive these funds and if the funds will be distributed in the form of a stipend, a bonus, or a wage increase.

The department would use the reported data to compare types and rates of payment for comparable services and for tracking distribution of direct care wage funds to designated workers. The department will also use the data to calculate lump sum payments to Medicaid certified swing-bed hospitals located in Montana. Such payments would be in addition to the reimbursement rate and may be used only for wage and benefit increases or lump sum payments for direct care or ancillary services workers in swing-bed hospitals. Providers should be aware that any funds put into their wage structure under the proposed rule may not be available in future years after the 2011 biennium.

The proposed allocation methodology would be based on the total annual number of Medicaid bed days prorated to each participating swing-bed facility. The lump sum payments would be in addition to the Medicaid swing-bed hospital reimbursement rate. It may be used only for wage and benefit increases or lump sum payments for direct care or ancillary services workers in swing-bed hospitals.

Since the amount and use of the appropriation is restricted by state and federal statute, the department did not consider alternatives to this proposal.

ARM 37.40.405

The department is proposing amendments to this rule to update the term "prescreening" to the current term "preadmission screening" described in detail at ARM 37.40.201.

Entities affected

There are 45 swing-bed hospitals eligible for Medicaid reimbursement in Montana. All could be affected by the proposed changes.

Fiscal effects

Total funding of approximately \$5,729,300 is available to provide for a one-time direct care worker wage increase for certain providers, including swing-bed hospitals. The total available for all swing-bed providers is \$158,565.

6. The department proposes that the adoption of New Rule I and the amendment of ARM 37.40.405 will be effective January 1, 2010.

7. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Gwen Knight, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena MT

59604-4210, no later than 5:00 p.m. on October 22, 2009. Comments may also be faxed to (406) 444-1970 or e-mailed to dphhslegal@mt.gov.

8. If persons who are directly affected by the proposed actions 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 Gwen Knight at the above address no later than 5:00 p.m., October 22, 2009.

9. If the agency receives requests for a public hearing on the proposed actions from either 10% or 25, whichever is less, of the persons directly affected by the proposed actions; 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 4 persons based on 45 providers.

10. 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 7 above or may be made by completing a request form at any rules hearing held by the department.

11. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

/s/ John Koch
Rule Reviewer

/s/ Anna Whiting Sorrell
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State September 14, 2009.

BEFORE THE DEPARTMENT OF PUBLIC SERVICE REGULATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 38.5.1411, pertaining to medical) AMENDMENT
emergencies)
) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On October 30, 2009, the Department of Public Service Regulation (PSC) proposes to amend the above-stated rule.

2. The PSC will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or who need an alternative accessible format of this notice. If you require an accommodation, contact the PSC no later than 5:00 p.m. on October 20, 2009, to advise us of the nature of the accommodation you need. Please contact Verna Stewart, PSC Secretary, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601; telephone (406) 444-6170; TTD (406) 444-6199; fax (406) 444-7618; or e-mail vstewart@mt.gov.

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

38.5.1411 MEDICAL EMERGENICES EXCEPTIONS (1) Except as provided herein, service may not be terminated to a residence where a ~~physician or local board of health~~ licensed health care professional certifies to the utility that the absence of service will aggravate an existing medical emergency condition which would threaten the health of any permanent resident. A licensed health care professional means a licensed physician, physician assistant-certified, advanced practice registered nurse, or registered nurse provided for in ARM 37.106.2805 and Title 37, MCA. All certifications must be in writing. The certificate must provide the name and address of the person with a the medical emergency condition that would be aggravated by a termination of service and the office address and telephone number of the certifying ~~physician or local board of health~~ licensed health care professional. All written certifications must be signed by a ~~physician or by a person with knowledge of the facts at the local board of health~~ the licensed health care professional. A medical emergency condition certificate expires in 30 is valid for 180 days from the date it is signed and dated by the licensed health care professional, ~~but and~~ may be renewed on a ~~monthly~~ semiannual basis.

(2) To avoid the ~~burden~~ accumulation of a substantial arrearage ~~at the end of the medical emergency during the term of the medical certificate,~~ the utility and the customer, or an authorized representative of the customer, shall negotiate an equitable payment ~~plan~~ arrangement that is reasonable and consistent with the customer's ability to pay. ~~If the parties cannot reach a satisfactory agreement, either~~

party may seek such an agreement through the Commission. If the customer fails to make payments as established, resulting in an arrearage of \$500 or more, the customer is required to enter into and comply with a monthly payment arrangement equal to the average of the last 12 months billing plus 1/12 of the arrearage. Failure to enter into a monthly payment arrangement and make payments will result in disconnection proceedings being initiated as set out in (3).

(3) The utility must provide written notice of the initiation of disconnection proceedings to the customer. If no resolution has been reached within ten days of mailing, the utility must send a second notice. From the date of the second notice the customer must pay at least one-third of the delinquent charges to avoid termination of service. The second notice must be sent by the utility at least ten days prior to the date of the proposed termination. All written notices must be sent by first class or certified mail. Prior to termination of service the utility must make a diligent attempt to contact the customer, either in person or by telephone, to apprise the customer of the proposed action. If telephone or personal contact is not made, the utility employee shall leave notice in a place conspicuous to the customer that service will be terminated on the next business day. If the required payment is made, a new payment arrangement will be recalculated consistent with (2). Under no circumstances shall disconnection proceedings occur on accounts with an arrearage of less than \$500. Nothing in this rule prevents a utility from continuing service to a delinquent medically protected account.

(4) The utility must notify the commission in writing of the proposed termination at the beginning of the disconnection process. The commission may intervene and require a different payment arrangement or delay termination of services if the circumstances warrant. Before the commission will consider approving an alternate payment arrangement, the customer must apply, if eligible, for financial aid through organizations providing utility bill payment assistance and must respond to commission requests for information. The payment arrangement set by the commission is binding upon both the customer and the utility. Failure to comply with the payment arrangement may result in disconnection proceedings being initiated as set out in (3).

(5) From November 1 through March 31, the utility may not terminate a medical exception account protected from disconnection by the criteria established in ARM 38.5.1410.

AUTH: 69-3-103, MCA

IMP: 69-3-102, MCA

4. Amendment of ARM 38.5.1411 is necessary to allow the PSC to clarify and update the medical exception rule to utility service termination. The PSC has received more medical emergency review requests from NorthWestern Energy in the past year than at any time since the rule was established. One of the primary concerns the PSC has with the rule is whether termination of service is allowed when an individual qualifies for medical protection but does not comply with certain rule provisions. The first section of the rule supports a conclusion that service may not be terminated for qualified medical emergencies. The second section can be read as qualifying the first section, and allowing termination under certain

circumstances. The rule indicates that the customer shall negotiate a payment arrangement with the utility or, if that is unsuccessful, one will be established by the commission. The rule is not entirely clear on whether a customer with medical emergency protection can be terminated for failure to enter into and be in compliance with a payment arrangement. The commission has, at least implicitly, interpreted the rule both ways. The manner in which the rule has been interpreted and implemented creates problems with the enforcement of the rule. The rule is currently used primarily for chronic medical conditions even though the rule is titled "medical emergencies." The current rule does not adequately address chronic medical situations, which constitute the majority of cases under the rule that come up for review by the commission.

5. Concerned persons may submit their written data, views, or arguments (original and 10 copies) to Legal Division, Public Service Commission, 1701 Prospect Avenue, P.O. Box 202601, Helena, MT 59620-2601, and must be received no later than October 28, 2009 at 5:00 p.m., or may be submitted to the PSC through the PSC's web-based comment form at <http://psc.mt.gov> (go to "Contact Us," "Comment on Proceedings Online," then complete and submit the form) no later than October 28, 2009. (PLEASE NOTE: When filing comments pursuant to this notice please reference "Docket No. L-09.9.1-RUL.")

6. The Montana Consumer Counsel, 616 Helena Avenue, P.O. Box 201703, Helena, Montana 59620-1703, telephone (406) 444-2771, is available and may be contacted to represent consumer interests in this matter.

7. If persons who are directly affected by the proposed amendment wish to express their data, views, or arguments either 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 Justin Kraske, Legal Division, Public Service Commission, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, or e-mail jkraske@mt.gov to be received no later than 5:00 p.m., October 28, 2009.

8. If the PSC receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the approximately 500 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. Ten percent of those directly affected has been determined to be 50 persons based on the number of medical exemption customers impacted.

9. The PSC maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the PSC. Persons who wish to have their name added to the list shall make a written request which includes that name, e-mail address, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: electric utilities, providers, and suppliers; natural gas utilities, providers, and suppliers; telecommunications utilities and carriers; water and sewer utilities; common carrier pipelines; motor carriers; rail

carriers; and/or administrative procedures. Such written request may be mailed or delivered to Public Service Commission, Legal Division, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601, faxed to Verna Stewart at (406) 444-7618, e-mailed to vstewart@mt.gov, or may be made by completing a request form at any rules hearing held by the PSC.

10. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the Notice conform to the official version of the Notice, as printed in the Montana Administrative Register. However, the PSC advises that it will decide any conflict between the official version and the electronic version in favor of the official printed version. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

/s/ Greg Jergeson
Greg Jergeson, Chairman
Public Service Commission

/s/ Robin A. McHugh
Reviewed by Robin A.
McHugh

Certified to the Secretary of State, September 14, 2009.

BEFORE THE COMMISSIONER OF POLITICAL PRACTICES
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 44.10.338 pertaining to	)	AMENDMENT
limitations on individual and political)	
party contributions	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. On October 24, 2009 the Commissioner of Political Practices proposes to amend the above-stated rule.

2. The Commissioner of Political Practices 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 Commissioner of Political Practices no later than 5:00 p.m. on September 28, 2009, to advise us of the nature of the accommodation that you need. Please contact Dennis Unsworth, Commissioner of Political Practices, P.O. Box 202401, 1205 Eighth Avenue, Helena, Montana, 59620; telephone (406) 444-2942; fax (406) 444-1643; or e-mail dunsworth@mt.gov.

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

44.10.338 LIMITATIONS ON INDIVIDUAL AND POLITICAL PARTY CONTRIBUTIONS (1) Pursuant to the operation specified in 13-37-216, MCA, limits on total combined contributions from individuals to candidates are as follows:

- (a) a candidate for governor may receive no more than ~~\$630~~ \$600;
- (b) a candidate for other statewide office may receive no more than ~~\$340~~ \$300;
- (c) a candidate for all other public offices may receive no more than \$160.

(2) Pursuant to the operation specified in 13-37-216, MCA, limits on total combined contributions from political party committees to candidates are as follows:

- (a) a candidate for governor may receive no more than ~~\$22,500~~ \$21,600;
- (b) a candidate for other statewide offices may receive no more than ~~\$8,150~~ \$7800;
- (c) a candidate for Public Service Commission may receive no more than ~~\$3,250~~ \$3100;
- (d) a candidate for senate may receive no more than ~~\$1,300~~ \$1250;
- (e) a candidate for all other public offices may receive no more than \$800.

(3) Pursuant to 13-37-218, MCA, in-kind contributions must be included in computing these limitation totals.

AUTH: 13-37-216, MCA
IMP: 13-37-216, MCA

Reasonable Necessity: Section 13-37-216, MCA, requires the Commissioner of Political Practices to periodically adjust the limitation established in statute, and to publish the revised limitations as a rule. The Bureau of Labor Statistics supplied the following Consumer Price Index information: June 2002 CPI = 179.9; June 2008 CPI = 215.693. The commissioner must adjust the limitations by multiplying each limit by an inflation factor, which is determined by dividing the Consumer Price Index for June of the year prior to the year in which a general election is held by the Consumer Price Index for June 2002. The inflation factor for the 2010 general election is 1.2. The information is used to determine the inflation factor to be applied to the contribution limits for candidates. This information is required by 13-37-216, MCA.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Dennis Unsworth, Commissioner of Political Practices, P.O. Box 202401, 1205 Eighth Avenue, Helena, Montana, 59620; telephone (406) 444-2942; fax (406) 444-1643; or e-mail dunsworth@mt.gov, and comments must be received no later than 5:00 p.m., October 22, 2009.

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 Dennis Unsworth at the above address no later than 5:00 p.m., October 22, 2009.

6. If the agency receives requests for a public hearing on the proposed action from either 10% 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 85 persons based on candidate counts from the 2008 election cycle.

7. The commissioner 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.

8. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all

concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by e-mail on September 14, 2009.

/s/ Jim Scheier
Jim Scheier
Rule Reviewer

/s/ Dennis Unsworth
Dennis Unsworth
Commissioner
Political Practices

Certified to the Secretary of State September 14, 2009.

BEFORE THE COMMISSIONER OF POLITICAL PRACTICES
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 44.10.331 pertaining to	)	AMENDMENT
limitations on receipts from political)	
committees to legislative candidates	)	NO PUBLIC HEARING
	)	CONTEMPLATED

TO: All Concerned Persons

1. On October 24, 2009 the Commissioner of Political Practices proposes to amend the above-stated rule.

2. The Commissioner of Political Practices 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 Commissioner of Political Practices no later than 5:00 p.m. on September 28, 2009, to advise us of the nature of the accommodation that you need. Please contact Dennis Unsworth, Commissioner of Political Practices, P.O. Box 202401, 1205 Eighth Avenue, Helena, Montana, 59620; telephone (406) 444-2942; fax (406) 444-1643; or e-mail dunsworth@mt.gov.

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

44.10.331 LIMITATIONS ON RECEIPTS FROM POLITICAL COMMITTEES

(1) Pursuant to the operation specified in 13-37-218, MCA, limits on total combined contributions from political committees other than political party committees to legislative candidates are as follows:

(a) a candidate for the state house of representatives may receive no more than ~~\$1500~~ \$1550;

(b) a candidate for the state senate may receive no more than ~~\$2450~~ \$2500.

(2) These limits apply to total combined receipts for the entire election cycle of ~~2008~~ 2010.

(3) Pursuant to 13-37-218, MCA, in-kind contributions must be included in computing these limitation totals.

AUTH: 13-37-114, 13-37-218, MCA
IMP: 13-37-218, 15-30-101(8), MCA

Reasonable Necessity: Section 13-37-218, MCA, requires the Commissioner of Political Practices to periodically adjust the limitations established as a rule. The Bureau of Labor Statistics supplied the following Consumer Price Index information: June 2003 CPI = 183.7; June 2008 CPI = 215.693. The commissioner must adjust the limitations by multiplying each limit by an inflation factor, which is determined by dividing the Consumer Price Index for June of the year prior to the year in which a

general election is held by the Consumer Price Index for June 2003. The inflation for the 2010 election is 1.174. The information is used to determine the inflation factor to be applied to the aggregate contribution limits for House and Senate candidates. This information is required by 13-37-218, MCA and appears in ARM 44.10.331. It must be revised after June of every odd numbered year.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Dennis Unsworth, Commissioner of Political Practices, P.O. Box 202401, 1205 Eighth Avenue, Helena, Montana, 59620; telephone (406) 444-2942; fax (406) 444-1643; or e-mail dunsworth@mt.gov, and must be received no later than 5:00 p.m., October 22, 2009.

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 Dennis Unsworth at the above address no later than 5:00 p.m., October 22, 2009.

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 85 persons based on candidate counts from the 2008 election cycle.

7. The commissioner 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.

8. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

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

/s/ Jim Scheier
Jim Scheier
Rule Reviewer

/s/ Dennis Unsworth
Dennis Unsworth
Commissioner
Political Practices

Certified to the Secretary of State September 14, 2009.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the adoption of New	)	NOTICE OF ADOPTION,
Rule I through New Rule XII,	)	AMENDMENT, AND REPEAL
amendment of ARM 10.54.4010)	
through 10.54.4013, 10.54.4020)	
through 10.54.4023, 10.54.4030)	
through 10.54.4033, and 10.54.4040)	
through 10.54.4043, and repeal of)	
ARM 10.54.4050 through 10.54.4053,)	
10.54.4060 through 10.54.4063,)	
10.54.4070 through 10.54.4073, and)	
10.54.4087 through 10.54.4098)	
pertaining to math content standards)	
and performance descriptors)	

TO: All Concerned Persons

1. On May 28, 2009, the Board of Public Education published MAR Notice No. 10-54-249 pertaining to the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules at page 767 of the 2009 Montana Administrative Register, Issue Number 10. On July 30, 2009, the Board of Public Education published an Amended Notice of Public Hearing extending the date for the public hearing on the proposed adoption, amendment, and repeal of the above stated rules at page 1201 of the 2009 Montana Administrative Register, Issue Number 14.

2. The board has adopted the following rules as proposed: NEW RULE I (10.54.4101), NEW RULE II (10.54.4102), NEW RULE III (10.54.4103), NEW RULE IV (10.54.4104), NEW RULE V (10.54.4105), NEW RULE VI (10.54.4106), NEW RULE VII (10.54.4107), NEW RULE VIII (10.54.4108), NEW RULE IX (10.54.4109), NEW RULE X (10.54.4110), NEW RULE XI (10.54.4111), and NEW RULE XII (10.54.4112).

3. The board has amended and repealed the above-stated rules as proposed.

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

COMMENT #1: Mr. Bruce Swanson appeared and proposed oral and subsequent written comments for amendments based upon policy which tries to distance standards development from the "strands-and-spiral" direction he feels Montana has taken.

RESPONSE #1: The board recognizes the foundational sources behind the current language that incorporates the research-based work of the National Council of Teachers of Mathematics which focuses on learning progressions rather than spiraling. The board thanks Mr. Swanson for his comments, but respectfully does not concur.

COMMENT #2: Ms. Robyn Baker, MIEA, thanked the board for extending the timeline for accepting comments and supports the amendments of the language regarding Montana's American Indians.

RESPONSE #2: The board thanks Ms. Baker on behalf of MIEA's Board of Directors and concurs with her comments.

COMMENT #3: The Office of Public Instruction advised the board at its July 17, 2009 meeting that language relating to Montana American Indians had been inadvertently omitted from the suggested amendments to the rules and recommended amending the rules to ensure that the math standards include references to Montana American Indian culture.

RESPONSE #3: The board appreciates the input from the Office of Public Instruction and concurs with the insertion of the language pertaining to Montana American Indians throughout the document for purposes of continuity with all of the Board of Public Education's content standards. These changes were made in the Amended Notice of Hearing published July 30, 2009.

/s/ Steve Meloy
Steve Meloy
Rule Reviewer

/s/ Patty Myers
Patty Myers
Chairperson
Board of Public Education

Certified to the Secretary of State September 14, 2009.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the adoption of New Rule I pertaining to sign language interpreters) NOTICE OF ADOPTION
)
)

TO: All Concerned Persons

1. On July 30, 2009, the Board of Public Education published MAR Notice No. 10-55-252 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 1205 of the 2009 Montana Administrative Register, Issue Number 14.

2. The board has adopted New Rule I as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

NEW RULE I (ARM 10.55.718) ASSIGNMENT OF PERSONS PROVIDING SIGN LANGUAGE INTERPRETING FOR STUDENTS WHO ARE DEAF OR HARD OF HEARING (1) and (2) remain as proposed.

(3) An employee who has not met the qualifications in (1), but who has demonstrated a competency level of 2.5 or higher on the EIPA or a score commensurate with a competency level of 2.5 or higher on the EIPA Pre-Hire Assessment and ~~passed the written portion of the Educational Interpreter Performance Assessment~~, may be assigned to provide educational sign language interpreting services. Such individuals shall have three years, from date of initial assignment, or the effective date of this rule, to demonstrate competency as described in (1).

(4) remains as proposed.

(5) Employees who have met the requirements in (1) and who seek to remain eligible to work as educational sign language interpreters are responsible for documenting a completion of 12 clock hours of professional development and/or Office of Public Instruction (OPI) renewal units per calendar year related to the improvement of educational interpreting, performance, and knowledge skills. Such individuals will provide documentation of completion to their employing school district, cooperative, or contracting agency.

(6) remains as proposed.

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

COMMENT #1: Tiffany Harding, Supervising Interpreter for Montana School for the Deaf and Blind (MSDB) supported the standards and encouraged the board to consider developing a framework for mentorship, a training course, or a study plan so the state can maintain the necessary numbers of qualified interpreters. MSDB suggested under (6) to recognize and approve the Registry of Interpreters for

the Deaf (RID) as a provider of continuing educational opportunities.

RESPONSE #1: The board thanks this witness for her input and agrees with her testimony. The board is currently working with other stakeholders who participated in the development of the rule, including the Montana Registry of Interpreters for the Deaf (MRID), to devise an implementation plan for the rule.

COMMENT #2: A letter was received from Missy Grinnell, President of the Montana Registry of Interpreters for the Deaf. Ms. Grinnell expressed MRID's support for the rule and formally endorsed the guidelines, recognizing the need for this type of professional standard.

RESPONSE #2: The board thanks this witness for her input and appreciates her support.

COMMENT #3: Marilyn Pearson, former Assistant Director of Special Education for OPI, stated she supports the adoption of the proposed rule, with qualifications. Under (3), Ms. Pearson stated she would like to remove the language "and passed the written portion of the Education Interpreter Performance Assessment" and replace it with the following language "or a score commensurate with a competency level of 2.5 or higher on the EIPA Pre-Hire Assessment." This language was agreed upon by the Sign Language Interpreters Standards Workgroup, but was omitted from the proposed rule. Ms. Pearson stated she would support the rule only as amended.

RESPONSE #3: The board thanks this witness for her input and agrees with her testimony. The board concurs that the amendment recommended by Ms. Pearson be made to New Rule 1(3).

COMMENT #4: Ms. Pearson also stated that a few words needed to be added to (5). These terms also were decided upon by the Workgroup, but omitted from the proposed rules. She asked to add the word "twelve" spelled out, parentheses around the number 12 and the word "clock" for clarification purposes. She also asked the acronym "OPI" be added to clarify the type of renewal units a certified interpreter needs to earn.

RESPONSE #4: The board thanks this witness for her input and agrees with her testimony. The board amended (5) to add the word "clock" between the number "12" and "hours"; however, due to publishing rules adopted by the Secretary of State's office for administrative rules, the board cannot add the word "twelve" with the number in parentheses. The full name "Office of Public Instruction" with the acronym has also been added.

COMMENT #5: Laurie Gerhardt, an interpreter for deaf students in the Livingston Schools, testified on her own behalf to oppose the rule as it is written. Ms. Gerhardt stated that under the proposed language she is not minimally competent for being a public schools interpreter because she has never taken the

Educational Interpreter Performance Assessment (EIPA). Ms. Gerhardt asked both the EIPA and RID certification be recognized as proof of interpreter competency in order to allow for the largest possible pool of qualified interpreters from which schools can hire. Ms. Gerhardt also provided a document showing that as of 2007, 32 states in the nation accept the RID, 22 of those accepting both the EIPA and RID. She also pointed out only six states accept just the EIPA. Mr. Meloy asked if the term "commensurate", as stated under (3), could be a way of stating RID is acceptable. Ms. Pearson stated the term only applies to a score achieved on the EIPA Pre-Hire Assessment; it does not have to do with accepted certifying bodies since it does not appear in (1).

RESPONSE #5: The board thanks this witness for her comments, but respectfully disagrees with her testimony. The Sign Language Interpreters Standards Workgroup discussed the inclusion of the RID exam as a recognized proof of interpreter competency during the development of the rule; however, the Workgroup felt the EIPA was better because it measures interpreting skills as they directly relate to the educational setting.

/s/ Steve Meloy
Steve Meloy
Rule Reviewer

/s/ Patty Myers
Patty Myers
Chairperson
Board of Public Education

Certified to the Secretary of State September 14, 2009.

BEFORE THE FISH, WILDLIFE AND PARKS COMMISSION
OF THE STATE OF MONTANA

In the matter of the adoption of a)
temporary emergency rule closing the) NOTICE OF ADOPTION OF A
Beartooth Wildlife Management Area) TEMPORARY EMERGENCY RULE
in Lewis and Clark County)

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of a temporary emergency rule:

(a) A wildfire burning near Holter Lake is rapidly approaching the Beartooth Wildlife Management Area.

(b) Persons recreating on the Beartooth Wildlife Management Area would be subjected to erratic and unpredictable fire conditions posing a danger of:

- (i) becoming surrounded and trapped by the fire;
- (ii) becoming a potential burden to rescue and fire crews; or
- (iii) death.

(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following temporary emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be posted at access points. The rule will be sent to interested parties, and published as a temporary emergency rule in Issue No. 18 of the 2009 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on October 9, 2009, to advise us of the nature of the accommodation that you need. Please contact Jessica Fitzpatrick, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-9785; fax (406) 444-7456; or e-mail jfitzpatrick@mt.gov.

3. The temporary emergency rule is effective September 11, 2009 when this rule notice is filed with the Secretary of State.

4. The text of the temporary emergency rule provides as follows:

RULE I BEARTOOTH WILDLIFE MANAGEMENT AREA TEMPORARY EMERGENCY CLOSURE (1) The Beartooth Wildlife Management Area is located in Lewis and Clark County.

(2) The Beartooth Wildlife Management Area is closed to all public occupation, hunting, and recreation.

(3) This rule is effective as long as there is fire threatening the Beartooth Wildlife Management Area and until the department repeals this rule.

AUTH: 23-1-106, MCA
IMP: 23-1-106, MCA

5. The rationale for the temporary emergency rule is as set forth in paragraph 1.

6. This rule will expire as soon as the department determines the Beartooth Wildlife Management Area is again safe for occupation and recreation. This will depend on the extent and duration of the fire in the area. Signs restricting use of the Beartooth Wildlife Management Area will be removed when the rule is no longer effective. Notice of repeal of this emergency rule will be published in the Montana Administrative Register.

7. Concerned persons are encouraged to submit their comments to the department. They should submit their comments along with their names and addresses to Jessica Fitzpatrick, Legal Unit, Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-9785; fax (406) 444-7456; or e-mail jfitzpatrick@mt.gov. Any comments must be received no later than October 30, 2009.

8. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

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

/s/ Robert N. Lane

Robert N. Lane

Department of Fish, Wildlife and Parks

/s/ Bill Schenk

Bill Schenk

Rule Reviewer

Certified to the Secretary of State September 11, 2009.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS
OF THE STATE OF MONTANA

In the matter of the repeal of a)
temporary emergency rule closing the) NOTICE OF REPEAL OF A
Beartooth Wildlife Management Area) TEMPORARY EMERGENCY RULE
in Lewis and Clark County)

TO: All Concerned Persons

1. On September 11, 2009, the Department of Fish, Wildlife and Parks (department) adopted a temporary emergency rule closing the Beartooth Wildlife Management Area, published at page 1662 of the 2009 Montana Administrative Register, Issue No. 18. There was a wildfire burning near Holter Lake that was rapidly approaching the Beartooth Wildlife Management Area. This situation constituted an imminent peril to the public health, safety, and welfare of anyone recreating on the land.

2. The fire has been contained and the incident command and the Lewis and Clark County Sheriff's Department have deemed the fire as not threatening the Beartooth Wildlife Management Area. As this situation no longer constitutes an imminent peril to public health, safety, and welfare, the department is repealing the rule. The repeal of the rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the closure will be removed at access points. The repeal notice will be sent to interested parties, and published in Issue No. 18 of the 2009 Montana Administrative Register.

3. The repeal of the temporary emergency rule is effective September 14, 2009.

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

/s/ Robert N. Lane

Robert N. Lane

Department of Fish, Wildlife and Parks

/s/ Bill Schenk

Bill Schenk

Rule Reviewer

Certified to the Secretary of State September 14, 2009.

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

In the matter of the amendment of)
ARM 24.141.301 definitions,)
24.141.402 apprentice registration,)
24.141.405 fee schedule, 24.141.501)
electrician applications, 24.141.502)
permits, 24.141.503 examinations,)
24.141.504 licensure, 24.141.505)
contractor licensing, 24.141.2102)
continuing education, 24.141.2301)
unprofessional conduct, and)
24.141.2402 complaint procedure)
and the repeal of ARM 24.141.506,)
electrician qualifications)

NOTICE OF AMENDMENT AND
REPEAL

TO: All Concerned Persons

1. On August 13, 2009, the State Electrical Board (board) published MAR Notice No. 24-141-33 regarding the public hearing on the proposed amendment and repeal of the above-stated rules, at page 1365 of the 2009 Montana Administrative Register, issue no. 15.

2. On September 3, 2009, a public hearing was held on the proposed amendment and repeal of the above-stated rules in Helena. Several comments were received by the September 11, 2009, deadline.

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

COMMENT 1: Several commenters stated their general support of the proposed amendments.

RESPONSE 1: The board appreciates all comments made in the rulemaking process.

4. The board has amended ARM 24.141.301, 24.141.402, 24.141.405, 24.141.501, 24.141.502, 24.141.503, 24.141.504, 24.141.505, 24.141.2102, 24.141.2301, and 24.141.2402 exactly as proposed.

5. The board has repealed ARM 24.141.506 exactly as proposed.

STATE ELECTRICAL BOARD
JACK FISHER, PRESIDENT

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

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State September 14, 2009

BEFORE THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the amendment of ARM)
36.10.129, Wildland-Urban Interface,)
and the adoption of New Rule I)
regarding guidelines for development)
within the wildland-urban interface)

NOTICE OF AMENDMENT
AND ADOPTION

To: All Concerned Persons

1. On July 16, 2009, the Department of Natural Resources and Conservation published MAR No. 36-22-136 regarding a notice of public hearings on the proposed amendment and adoption of the above-stated rules, at page 1101 of the 2009 Montana Administrative Register, Issue Number 13.

2. The department amended ARM 36.10.129 exactly as proposed and adopted New Rule I (36.10.135) exactly as proposed.

3. No comments or testimony were received on the rules. Comments and testimony were received on the Guidelines for Development within the Wildland-Urban Interface (DNRC 2009), which is incorporated by reference in the rules. Those comments and their responses are available on the department's web site at http://dnrc.mt.gov/About_Us/notices.asp.

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

/s/ Mary Sexton
MARY SEXTON
Director
Natural Resources and Conservation

/s/ Mark Phares
MARK PHARES
Rule Reviewer

Certified to the Secretary of State on September 14, 2009.

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

In the matter of the adoption of New	)	NOTICE OF ADOPTION,
Rule I, the amendment of ARM	)	AMENDMENT, AND REPEAL
37.106.2401, 37.106.2404,)	
37.106.2405, 37.106.2407,)	
37.106.2411, 37.106.2412,)	
37.106.2415, 37.106.2416,)	
37.106.2420, 37.106.2422,)	
37.106.2423, 37.106.2430,)	
37.106.2431, 37.106.2432, and)	
37.106.2433, and the repeal of ARM)	
37.106.2406 and 37.106.2426)	
pertaining to home infusion therapy)	
(HIT))	

TO: All Concerned Persons

1. On May 28, 2009, the Department of Public Health and Human Services published MAR Notice No. 37-472 pertaining to the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules at page 827 of the 2009 Montana Administrative Register, Issue Number 10.

2. The department has adopted New Rule I (37.106.2421) as proposed. The department has amended ARM 37.106.2404, 37.106.2407, 37.106.2411, 37.106.2412, 37.106.2415, 37.106.2416, 37.106.2423, 37.106.2430, 37.106.2431, 37.106.2432, and 37.106.2433, and repealed ARM 37.106.2406 and 37.106.2426 as proposed.

3. The department has amended the following rules as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

37.106.2401 HOME INFUSION THERAPY AGENCY: DEFINITIONS In addition to the definitions in 50-5-101, MCA, the following definitions apply to this subchapter:

(1) through (5) remain as proposed.

(6) "ISO Class 5" means a classification of air cleanliness as defined in United States Pharmacopoeia (USP) USP 31 General Chapter 797 Pharmaceutical Compounding - Sterile Preparations.

(7) through (13) remain as proposed.

AUTH: 50-5-103, MCA

IMP: 50-5-103, 50-5-213, MCA

37.106.2405 HOME INFUSION THERAPY AGENCY: ADMINISTRATOR AND PERSONNEL (1) and (1)(a) remain as proposed.

(b) be responsible for ongoing oversight of the home infusion therapy agency's quality assessment system, including the establishment of policies and procedures which address the safe control, accountability, distribution, and administration of infusion products;

(c) through (7)(d) remain as proposed.

AUTH: 50-5-103, MCA

IMP: 50-5-103, 50-5-213, MCA

37.106.2420 HOME INFUSION THERAPY AGENCY: POLICY AND PROCEDURE MANUAL (1) The home infusion therapy agency shall develop a policy and procedure manual for the organization and operation of the home infusion therapy agency. A copy of the manual must be kept current at all times, and be readily available at all times, and to all who request it.

(2) through (3)(x) remain as proposed.

AUTH: 50-5-103, MCA

IMP: 50-5-103, 50-5-213, MCA

37.106.2422 HOME INFUSION THERAPY AGENCY: PHYSICAL REQUIREMENTS FOR PHARMACIES (1) remains the same.

(a) a separate room with a closed door, isolated from other areas with restricted entry or access, and designed to avoid unnecessary traffic and airflow disturbances from activity as required by United States Pharmacopoeia (USP) USP 31 General Chapter 797 Pharmaceutical Compounding - Sterile Preparations;

(b) through (d) remain as proposed.

(2) If a home infusion therapy agency elects to use a Compounding Aseptic Isolator (CAI), the "separate room" requirement of (1)(a) is not required, provided that the home infusion therapy agency maintains documentation of meeting the standards for this exception of CAIs set forth in USP 31 General Chapter 797.

(2) through (7) remain as proposed but are renumbered (3) through (8).

AUTH: 50-5-103, MCA

IMP: 50-5-103, 50-5-213, MCA

4. The department has amended ARM 37.106.2401, 37.106.2405, and 37.106.2422 for clarity and consistency. In ARM 37.106.2401 and 37.106.2422 the acronym USP is not defined, therefore "United States Pharmacopoeia (USP)" is being added to identify the acronym being used as the meaning of this acronym may not be widely recognized. "Home infusion therapy" is being added in ARM 37.106.2405(1)(b) and 37.106.2420(1) for consistency in identifying home infusion therapy agency references.

5. 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 commentor requested that a Compounding Aseptic Isolator (CAI) be added to ARM 37.106.2422(1)(a) so the description of a pharmacy as a separate room will not be misinterpreted to exclude the use of a CAI that is self-contained and provides the appropriate mixing environment. The commentor proposed the following language: "Compounding Aseptic Isolators (CAIs) can be placed in a nonsegregated room with conditions that exceed ISO Class 8 particle counts if the manufacturer of the unit can provide documentation that the CAI maintains ISO Class 5 during dynamic operation conditions."

RESPONSE #1: As a CAI is capable of meeting the ISO Class 5 air standards required by United States Pharmacopoeia (USP) 31 General Chapter 797, and the department is proposing incorporation of 797, language allowing the use of CAI is not needed. However, additional language has been added in response to this comment in relation to a "separate room" or "clean room". With a vertical or horizontal flow hood, a clean room capable of maintaining an ISO Class 7 environment, as opposed to a Class 8 as proposed by the commentor, is required by 797, but not required if a CAI is used, if rules for exception are met as described in 797. Therefore, an additional section has been added that clarifies that a "separate room", required in ARM 37.106.2422(1)(a), is not required if a home infusion therapy agency elects to utilize a CAI, but that the agency must maintain documentation of compliance with 797 concerning the exceptions in regards to the CAIs.

COMMENT #2: It was asked how the department will enforce the proposed rules.

RESPONSE #2: The department will enforce the proposed rules in the same manner it enforces current rules, by a process of facility surveys, subsequent generation of statement of deficiencies where noncompliance with those rules are found, and an allowance for the facility to come into compliance. The proposed rules do not affect the procedure by which the state enforces the home infusion therapy rules.

/s/ Lisa A. Swanson
Rule Reviewer

/s/ Anna Whiting Sorrell
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State September 14, 2009.

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 37.8.126 pertaining to)
grandparents and relative caregivers)
access to birth records)

TO: All Concerned Persons

1. On June 25, 2009, the Department of Public Health and Human Services published MAR Notice No. 37-478 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 1007 of the 2009 Montana Administrative Register, Issue Number 12.

2. The department has amended the above-stated rule 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: The department received two written comments in support of the department's proposed rule change.

RESPONSE #1: The department appreciates the support and will move forward with the rule amendment as proposed.

/s/ Michelle Maltese
Rule Reviewer

/s/ Anna Whiting Sorrell
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State September 14, 2009

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 37.36.101, 37.36.201,)
37.36.202, 37.36.206, and 37.36.604)
pertaining to the Montana)
Telecommunications Access Program)
(MTAP))

TO: All Concerned Persons

1. On July 30, 2009, the Department of Public Health and Human Services published MAR Notice No. 37-479 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1226 of the 2009 Montana Administrative Register, Issue Number 14.
2. The department has amended the above-stated rules as proposed.
3. No comments or testimony were received.

/s/ Barbara Hoffmann
Rule Reviewer

/s/ Anna Whiting Sorrell
Anna Whiting Sorrell, Director
Public Health and Human Services

/s/ Linda Kirkland
Chairman of the Montana
Telecommunications Access
Committee

Certified to the Secretary of State September 14, 2009.

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

In the matter of the adoption of New	)	NOTICE OF ADOPTION,
Rules I through VII, the amendment	)	AMENDMENT, AND REPEAL
of ARM 37.79.101, 37.79.102,)	
37.79.106, 37.79.201, 37.79.202,)	
37.79.206, 37.79.207, 37.79.208,)	
37.79.301, 37.79.302, 37.79.303,)	
37.79.312, 37.79.317, 37.79.325,)	
37.79.326, 37.79.501, 37.79.503,)	
37.79.505, 37.79.601, 37.79.602,)	
37.79.605, 37.79.801, and 37.82.701,)	
and the repeal of 37.79.209)	
pertaining to implementing the)	
Healthy Montana Kids Plan Act)	

TO: All Concerned Persons

1. On July 30, 2009, the Department of Public Health and Human Services published MAR Notice No. 37-480 pertaining to the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules at page 1235 of the 2009 Montana Administrative Register, Issue Number 14.

2. The department has adopted New Rule VII (37.79.140) as proposed. The department has amended ARM 37.79.101, 37.79.102, 37.79.106, 37.79.202, 37.79.206, 37.79.207, 37.79.301, 37.79.302, 37.79.303, 37.79.312, 37.79.317, 37.79.325, 37.79.501, 37.79.503, 37.79.505, 37.79.601, 37.79.602, 37.79.605, and 37.79.801 and repealed 37.79.209 as proposed.

3. The department has adopted the following rules as proposed with the following changes from the original proposal. Matter to be added is underlined. Matter to be deleted is interlined.

RULE I (37.79.110) PROCESS FOR IDENTIFYING AND APPROVING ENROLLMENT PARTNERS (1) The following entities are qualified to be enrollment partners:

- (a) a licensed or certified health care provider;
- (b) a school district;
- (c) a community-based organization; ~~and~~
- (d) a government agency; and
- (e) provider associations.

(2) remains as proposed.

(3) A qualified entity becomes an enrollment partner by contacting the department and indicating an interest in becoming an enrollment partner. The department will notify the entity if it is accepted as an enrollment partner. ~~The~~

department will provide an enrollment partner with Healthy Montana Kids (HMK) Plan materials and applications. Enrollment partners must complete department sponsored training and provide application assistance to HMK Plan applicants.

(4) The department will recruit, train, provide program materials, and provide ongoing technical assistance to HMK enrollment partners.

(5) Enrollment partners must attend and complete department-sponsored training. The training will address HMK policies and procedures, confidentiality requirements, step-by-step instructions on how to complete the HMK application, and details regarding acceptable documents for citizenship, identity, and income verification.

(6) Enrollment partners will distribute program materials and applications. They will provide assistance to families to complete the application and obtain required documentation. Enrollment partners will submit the completed application and documentation to the department. The department will conduct the eligibility determination process and enroll eligible children in the appropriate coverage group of the HMK Plan.

~~(4) (7) The department will maintain a list of the names, addresses, and telephone numbers of its enrollment partners and publish the list on its web site.~~

~~(5) (8) Enrollment partners are volunteers who receive no compensation from the state of Montana.~~ The department has the option of denying or discontinuing enrollment partner status.

AUTH: 53-4-1105, MCA

IMP: 53-4-1104, 53-4-1105, MCA

RULE II (37.79.115) ACTIVE ENROLLMENT PROCESS (1) remains as proposed.

(2) An individual may apply for the HMK Plan coverage group, HMK, or HMK Plus at any time and, if qualified, will be enrolled in the appropriate program. The department will process applications based upon the date of receipt. The department will enroll eligible children in the appropriate HMK Plan group based upon the respective program guidelines. An application ~~can~~ may be submitted to the HMK Plan office, ~~or any county public assistance office.~~, or an enrollment partner.

AUTH: 53-4-1105, MCA

IMP: 53-4-1104, 53-4-1105, MCA

RULE III (37.79.120) MOVEMENT BETWEEN HMK AND HMK PLUS

(1) remains as proposed.

(2) The HMK and HMK Plus coverage groups provide 12 months continuous coverage. An eligible HMK coverage group enrollee's coverage begins on the first day of the month following the date the application is received. An eligible HMK Plus coverage group enrollee's coverage begins on the first day of the month in which the application is received. ARM 37.79.503 states eligibility determination procedures for the HMK coverage group. ARM 37.82.204 states eligibility determination procedures for the HMK Plus coverage group.

AUTH: 53-4-1105, MCA

IMP: 53-4-1104, 53-4-1105, 53-4-1110, MCA

RULE IV (37.79.125) POINT OF ACCESS (1) The department developed a combined Healthy Montana Kids Plan application for the HMK and HMK Plus coverage groups.

~~(1) (2) The department will accept and determine eligibility for all applications for children's health coverage provided by the HMK Plan. Applications may be submitted directly to the Healthy Montana Kids Plan office or any county office of public assistance (OPA), or to an enrollment partner who will forward it to the Healthy Montana Kids Plan office. The department Department staff in each location will screen for potential eligibility for the HMK Plan coordinate eligibility determination activities to enroll eligible children in the appropriate HMK Plan coverage group.~~

~~(2) OPA and HMK Plan staff will coordinate eligibility determination activities and enroll eligible children in the appropriate HMK Plan coverage group, HMK, or HMK Plus.~~

AUTH: 53-4-1105, MCA

IMP: 53-4-1104, 53-4-1105, MCA

RULE V (37.79.130) TRANSITION (1) remains as proposed.

(2) The second transition will take place when current CHIP enrollees from families with income between 100% and 133% of the FPL transition to the CHIP-funded Medicaid expansion program. The transition will occur at the time of annual reapplication during federal fiscal year 2010 (October 1, 2009 to September 30, 2010). Approximately 10,000 current CHIP enrollees will be affected by this transition. The staggered transition will occur throughout the year. A parent or guardian of an enrollee in the HMK coverage group may apply for the HMK Plus coverage at any time.

(a) remains as proposed.

AUTH: 53-4-1105, MCA

IMP: 53-4-1104, 53-4-1105, 53-4-1110, MCA

RULE VI (37.79.135) PROSPECTIVE PAYMENT SYSTEM FOR FEDERALLY QUALIFIED HEALTH CENTER (FQHC) REIMBURSEMENT (1) The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) requires states with separate or combined CHIP programs to pay federally qualified health centers (FQHCs) and rural health centers (RHCs) using the Medicaid outpatient prospective payment system (OPPS) as described in ARM 37.86.4413. An OPPS rate for the HMK coverage group will be developed by the department. The existing CHIP provider rate will be used for the HMK coverage group until the department establishes the OPPS rate for children enrolled in the HMK coverage group.

AUTH: 53-4-1105, MCA

IMP: 53-4-1104, 53-4-1105, MCA

4. The department has amended the following rules as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

37.79.201 ELIGIBILITY (1) An applicant may be eligible for covered services under the HMK coverage group if:

(a) through (g) remain as proposed

(h) the applicant does not have or has not had creditable health insurance coverage for three months prior to becoming eligible for the HMK coverage group. This three month period does not apply if the parent or guardian providing the insurance:

(i) through (vi) remain as proposed.

(vii) had coverage through the Medicaid Health Insurance Premium Payment (HIPP) program; ~~or~~

(viii) paid more than 50% of the insurance premium; or

(ix) has insurance coverage that is not accessible (e.g. coverage is through an HMO in another state).

(2) remains as proposed.

(3) An applicant who is eligible or potentially eligible for ~~Medicaid~~ the HMK Plus coverage group as determined by the department is not eligible for the HMK coverage group.

(4) The department must verify an applicant's citizenship or qualified alien status ~~before an otherwise eligible applicant is enrolled.~~

(5) Family income must be verified to determine eligibility. The department will request documentation of income from the applicant and will access various electronic databases to verify income as needed.

(a) through (13) remain as proposed.

AUTH: 53-4-1004, 53-4-1009, 53-4-1105, MCA

IMP: 53-4-1003, 53-4-1004, 53-4-1009, 53-4-1104, 53-4-1105, MCA

37.79.208 PROVISIONAL BENEFITS, DETERMINATION OF ELIGIBILITY, AND APPLICATIONS FOR HMK (1) remains as proposed.

(a) ~~submit a completed~~ complete the HMK Plan renewal application process before their HMK coverage group benefits are scheduled to end;

(b) and (c) remain as proposed.

(2) A determination of HMK Plan eligibility will be completed within 45 working calendar days after receipt of a complete application.

~~(3) Applicants who are denied HMK Plus coverage for failure to comply with HMK Plus eligibility requirements:~~

~~(a) are not eligible for the HMK coverage group benefits; and~~

~~(b) will not have their application referred to other health care resources.~~

~~(4) HMK coverage group applications will be processed for those applicants who subsequently provide information which would preclude them from HMK Plus eligibility.~~

AUTH: 53-4-1004, 53-4-1009, 53-4-1105, MCA

IMP: 53-4-1003, 53-4-1004, 53-4-1009, 53-4-1104, 53-4-1105, MCA

37.79.326 DENTAL BENEFITS (1) through (6) remain as proposed.

(7) For purposes of applying the provisions of any Medicaid rule as required by this subchapter, references in the Medicaid rule to "Medicaid" or the "Montana Medicaid program" or similar references shall be deemed to apply to the HMK Plan coverage group or the HMK Plus coverage group as the context permits.

AUTH: 53-4-1004, 53-4-1009, 53-4-1105, MCA

IMP: 53-4-1003, 53-4-1004, 53-4-1009, 53-4-1104, 53-4-1105, MCA

37.82.701 GROUPS COVERED, NONINSTITUTIONALIZED FAMILIES AND CHILDREN (1) Medicaid will be provided to:

(a) through (g)(i) remain as proposed.

(h) a child who has not yet reached age 19, whose family income does not exceed 133% of the federal poverty guidelines. This coverage group is known as the "Healthy Montana Kids (HMK) Plus" group. There is no resource test for this coverage group; Children determined eligible under the Healthy Montana Kids Plus program will receive up to 12 months of continuous coverage;

(i) through 3 remain as proposed.

AUTH: 53-4-212, 53-4-1105, 53-6-113, MCA

IMP: 53-4-231, 53-4-1104, 53-4-1105, 53-6-101, 53-6-131, 53-6-134, MCA

5. The department is making changes to ARM 37.79.208(2), 37.79.326(7), and 37.82.701(1)(h). These are technical or grammatical corrections that do not change the intent of the rules as published

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

Comments and responses to commentor #1:

COMMENT #1: In Rule I (37.79.110) commentor stated that the phrase "licensed health care providers" should be "licensed or certified health care providers" and provider associations should be added to the entities identified as eligible enrollment partners.

RESPONSE #1: The department agrees and will adopt new Rule I (37.79.110) with the proposed change.

COMMENT #2: In Rule III (37.79.120) under the proposed rules enrollees in both the Healthy Montana Kids (HMK) and HMK Plus coverage groups qualify for a 12 month coverage period upon enrollment but the coverage period begins on different

dates depending on the coverage group. An eligible HMK enrollee's coverage begins on the first day of the month following the date the application is received. An HMK Plus enrollee's coverage begins on the first day of the month of eligibility. The commentor noted this is a difference that should be clearly stated in rule.

RESPONSE #2: The department agrees and will adopt Rule III (37.79.120) with the proposed change. Rule III (37.79.120) will also cross reference ARM 37.79.503 for HMK eligibility and ARM 37.82.204 for HMK Plus eligibility.

COMMENT #3: In Rule V (37.79.130) the department was asked to clearly state in this rule that the parent or guardian of a child currently enrolled in the HMK coverage group may transition an eligible child to the HMK Plus coverage group at any time during federal fiscal year 2010 (FFY 2010) rather than wait for the annual redetermination date for HMK eligibility.

RESPONSE #3: The department agrees that Rule V (37.79.130) requires this clarification and will adopt Rule V (37.79.130) with the proposed change.

COMMENT #4: In Rule VI (37.79.135) it was noted that the proposed rule states that the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) requires states to use the outpatient prospective payment system (OPPS) rate for Federally Qualified Health Centers (FQHCs) and Rural Health Centers (RHCs.) The rule also states that an OPPS rate for the HMK coverage group will be developed by the department. The commentor questions why a different payment must be developed for HMK coverage group and recommends the department establish the current Medicaid payment amount for this service category until, and if, an alternative rate is established.

RESPONSE #4: The department will establish an OPPS rate that is specific to the HMK Plan, but it is waiting for guidance from the Center for Medicare and Medicaid Services (CMS) regarding the CHIPRA requirements for OPPS rates. A different methodology is needed than the current Medicaid OPPS methodology because it is based on claims for Medicaid clients of all ages. The department is revising the language of the rule as proposed to state that the existing CHIP provider rate will be used for the HMK coverage group until the department establishes the OPPS rate for children enrolled in the HMK coverage group.

Comments and responses to commentor #2:

COMMENT #1: The commentor stated that Rule I (37.79.110) and II (37.79.115) should provide more detail about the functions of enrollment partners and what the HMK active enrollment process will be. The commentor notes that presumptive eligibility, which 53-4-1105, MCA, directs the department to provide for in rule, will impact the role of enrollment partners and active enrollment.

RESPONSE #1: The department agrees more detail is needed and is revising the final rules as adopted in Rule I (37.79.110). The department will be implementing

these provisions during the transitional year October 1, 2009 through September 30, 2010 and anticipates further revisions as the program develops. The department also agrees that presumptive eligibility must be provided for in rule. During FFY 2010 the department will propose rules on presumptive eligibility.

COMMENT #2: The commentor suggested the department consider coordinating enrollment partner functions with out-stationed eligibility workers, particularly in FQHCS, RHCS, Community Health Centers (CHCs), and hospital emergency rooms. The department should also investigate whether the OPPS provides reimbursement for this service.

RESPONSE #2: The department will work with CHCs and hospital emergency rooms to enroll HMK Plan enrollment partners.

COMMENT #3: The commentor requested clarification of the exceptions stated in ARM 37.79.201 to the three month delay period when the applicant previously had coverage through Insure Montana. Will HMK pay for Insure Montana coverage or will the parent discontinue Insure Montana coverage and receive HMK coverage group benefits?

RESPONSE #3: The three month insurance delay period does not apply if children had coverage through the Insure Montana Program. The department has established an identification and referral process with Insure Montana to assure potentially eligible HMK children are enrolled in HMK, not Insure Montana.

Comments and responses to commentor #3:

COMMENT #1: The commentor recommends the department adopt the logo used by organizations promoting Initiative 155 prior to the November, 2008 election.

RESPONSE #1: The department does not own the campaign logo and was not associated with promoting or opposing I-155. The department developed a logo for the Healthy Montana Kids Plan that is distinct, easily recognized and easily formatted for a variety of uses. The logo has been in use for several months and could not be easily changed at this time.

COMMENT #2: The commentor recommends that Rule I (37.79.110) and II (37.79.115) provide more details regarding enrollment partners and active enrollment.

RESPONSE #2: Several commentors stated more detail about enrollment partners and active enrollment is needed. The department agrees. It is revising Rule I (37.79.110) and it will monitor the implementation of HMK during FFY 2010 and will propose more detailed rules on enrollment partners and active enrollment as it develops those aspects of the program.

COMMENT #3: The commentor suggests that in Rule I (37.79.110) and II (37.79.115) the department develop a "train the trainer" program that allows qualified enrollment partners who have attended training to train other members in the organization.

RESPONSE #3: The department does not agree that training can be done by enrollment partners at this time but will reconsider the commentor's suggestion as the program develops. For FFY 2010 the department will provide direct training throughout the state by department staff and VISTA volunteers. The department plans to provide on-site training and Webinar training to all qualified entities who apply to become enrollment partners. In addition to initial training, the department will provide ongoing technical assistance and evaluate the effectiveness of enrollment partner services provided to families.

COMMENT #4: The commentor is opposed to the the three-month waiting period after creditable coverage ends and suggest the department shorten the waiting period or implement presumptive eligibility.

RESPONSE #4: The three-month waiting period was an amendment to 53-4-1004, MCA, enacted pursuant to I-155. Prior to that statutory change, the department, by administrative rule, used a one-month waiting period after creditable coverage ended and listed some hardship exceptions to that waiting period. The proposed rules continue and expand the hardship exceptions but the department does not have the authority to shorten a statutory waiting period with an administrative rule. The department agrees with the commentor, however, that presumptive eligibility will affect this issue and, as it implements presumptive eligibility during FFY 2010, it will consider the impact on this rule and propose changes if necessary.

COMMENT #5: The commentor is concerned that ARM 37.79.201 states an applicant cannot be enrolled in the HMK coverage group until proof of citizenship, or qualified resident status is provided. The commentor stated this requirement will make the enrollment process more cumbersome for everyone and delay enrollment for eligible Montana residents. The commentor would prefer that an individual be enrolled and allowed a reasonable time period to provide required documentation.

RESPONSE #5: Federal law requires a state that accepts federal CHIP funding to verify the citizenship or lawful permanent residency status of individuals who receive coverage. This is a program integrity and accountability provision. The department agrees with the commentor that the department should minimize, to the extent possible, the paperwork and delay that citizenship verification of citizenship or lawful permanent residing status can cause. The department allows enrollment in the HMK coverage group with a reasonable opportunity to verify citizenship or residency status. If the application states the child was born in Montana, the department will verify citizenship itself, if possible, through its Montana vital records electronic database. The department is exploring alternative means to verify citizenship for children not born in Montana. When the Social Security Administration's citizenship

and identity electronic verification system is available the department will apply for access. The department will monitor this issue during FFY 2010.

COMMENT #6: In ARM 37.79.201, the commentor is opposed to requiring a signature on renewal applications because it may result in otherwise eligible children losing coverage.

RESPONSE #6: The department does not agree. Signed renewal applications are necessary to efficiently and effectively administer the program. The department accepts electronic applications and electronic signatures and will evaluate alternative renewal application processes during FFY 2010.

COMMENT #7: The commentor is opposed to requiring income verification from the applicant. It would prefer the department use existing databases to verify income and suggests that the department use the Department of Labor's and Food Stamps database.

RESPONSE #7: Income verification is required for the Medicaid program; therefore, if HMK and HMK Plus coverage groups are going to be implemented as one seamless program, income verification is necessary. The department also considers income verification appropriate for program integrity and accountability. The department agrees that while verification is necessary, the inconvenience should be minimized for as many applicants as possible. The department will access various electronic databases for verification of income, when available, in an effort to reduce the burden on Montana families. The HMK staff will access the Department of Labor and Supplemental Nutrition Assistance Program (formerly Food Stamps) database.

COMMENT #8: In ARM 37.79.208 the commentor is opposed to increasing the application processing time from 20 working days to 45 calendar days.

RESPONSE #8: The increase is in the maximum time allowed to process an application. The department hopes to process applications in a shorter time and processing time will vary based on the application. The additional maximum time allowed is a reasonable and necessary estimate of the time period it could take to process an application if the applicant does not provide the needed income verification at the time of application. The effective date of coverage is changing from the first of the month following the eligibility determination to the first of the month after the receipt of the application for children in the HMK coverage group. The time a child does not have health care coverage is reduced despite the increase in the application processing time.

COMMENT #9: The commentor stated that language in ARM 37.79.208(3) is confusing.

RESPONSE #9: The department agrees that this language is unclear and the matter addressed is covered in other rules. It has revised the rule as adopted by omitting subsections (3) and (4).

Comments and responses to commentor #4:

COMMENT #1: A commentor stated that in ARM 37.79.201 an additional exception to the three-month waiting period after creditable coverage ends should be added for children whose insurance coverage could not be used in Montana. An example would be coverage through an HMO in another state.

RESPONSE #1: The department agrees and will adopt the final rule with the proposed change.

Comments and responses to commentor #5:

COMMENT #1: Regarding Rule III (37.79.120), a commentor states that a waiting list for the HMK coverage group is contrary to section 12 of Initiative 155, now codified as 53-6-131(1)(g), MCA. The commentor notes that the department established 133%, not 185%, of the federal poverty level (FPL) as the HMK Plus income ceiling and states that this violates 53-6-131(1)(g), MCA. The commentor interprets state law to require that a child from a family with income below 185% of FPL be placed in the HMK Plus coverage group unless there is coverage available in the HMK coverage group.

The commentor states that the 133% ceiling for HMK Plus may be acceptable during FFY 2010 as the department transitions the programs, but if there is a waiting list for the HMK coverage group, the 133% HMK Plus coverage group ceiling should be raised so that there is no waiting list for the HMK coverage group.

RESPONSE #1: The department does not agree that 53-6-131(1)(g), MCA establishes 185% of FPL as the mandatory ceiling for the HMK Plus coverage group and it does not agree that a waiting list for the HMK coverage group would be a violation of state law.

The department set the HMK Plus ceiling based on its ongoing projections regarding state and federal funding. This is required by statute and by the Legislature's power to appropriate. Section 53-6-131(1)(g), MCA states that:

"Medical assistance under the Montana medicaid program may be granted to a person who is determined by the department of public health and human services, in its discretion, to be eligible as follows:
. . . (g) the person is under 19 years of age and lives with a family having a combined income that does not exceed 185% of the federal poverty level. The department may establish lower income levels to the extent necessary to maximize federal matching funds provided for in 53-4-1104."

This gives the department the authority to set the HMK Plus ceiling based on state and federal appropriations and it has done so. The department set 133% of FPL as

a ceiling for HMK Plus based on the amount of money appropriated by the 2009 Legislature for the HMK Plan.

As stated in the proposed rules, the income ceilings for the HMK Plus program were raised. Income between 0 and 133% of FPL now qualifies a child for the HMK Plus coverage group. The ceiling for the HMK coverage group (formerly CHIP) participation was also raised, by Initiative 155, from 175% of FPL to 250% of FPL. Income between 134% and 250% of FPL now qualifies a child for the HMK coverage group, which may have a waiting list. The department agrees that if a waiting list comes into existence it should be closely monitored and the ceiling of 133% reviewed. It will do so and, if a waiting list occurs, it will bring the issue to the attention of the Legislature.

COMMENT #2: A commentor stated that Rule IV (37.79.125) should provide that applications may be submitted through enrollment partners.

RESPONSE #2: The department agrees and the final rule adopted reflects this change.

COMMENT #3: A commentor stated that the language "participation in the HMK coverage group is voluntary and an enrollee may withdraw from the program at any time" in ARM 37.79.505 conflicts with section 5 of the Act (codified at 53-4-1105(4), MCA). The commentor interprets the Healthy Montana Kids Act to require that parents enroll their children in HMK or HMK Plus unless the listed exceptions apply. Under this interpretation the Healthy Montana Kid Plan is a mandatory "opt-out" program.

RESPONSE #3: The department does not agree that the HMK Plan is a mandatory program. It is a discretionary program for which parents and guardians may choose to apply for health care coverage for their children.

COMMENT #4: A commentor stated that, while I-155 did not contemplate a delay in implementation, not all of the pieces of this reform can be implemented at the same time. Premium assistance and presumptive eligibility must be implemented as soon as practicable.

RESPONSE #4: The department agrees that these provisions must be promptly implemented. FFY 2010 is the transitional year and will provide experience in the strengths and weakness of the implementation. The department is currently resolving premium assistance and presumptive eligibility questions and will publish proposed rules during FFY 2010.

COMMENT #5: The commentor stated that income verification should not be required for either the HMK or the HMK Plus coverage groups once presumptive eligibility is implemented.

RESPONSE #5: Income verification is required for the Medicaid program; therefore, if HMK and HMK Plus coverage groups are going to be implemented as a seamless program, income verification is necessary. Income verification is appropriate and necessary for program integrity and accountability to taxpayers. The department agrees that while verification is necessary, inconvenience should be minimized. It will access various electronic databases for verification of income, when available, in an effort to reduce the burden on Montana families.

7. The department intends to apply these rules effective October 1, 2009.

/s/ Geralyn Driscoll
Rule Reviewer

/s/ Anna Whiting Sorrell
Anna Whiting Sorrell, Director
Public Health and Human Services

Certified to the Secretary of State September 14, 2009

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 42.19.406 relating to extended)
property tax assistance program)
(EPTAP))

TO: All Concerned Persons

1. On August 13, 2009, the department published MAR Notice No. 42-2-808 regarding the proposed amendment of the above-stated rule at page 1397 of the 2009 Montana Administrative Register, issue no. 15.

2. A public hearing was held on September 2, 2009, to consider the proposed amendment. No one appeared at the hearing to testify.

3. No written comments were received subsequent to the hearing. The department amends ARM 42.19.406(3)(a) as shown below because the month of August has passed and therefore will not be applicable for this rule.

42.19.406 EXTENDED PROPERTY TAX ASSISTANCE PROGRAM (1) through (3) remain as proposed.

(a) In order for qualifying taxpayers to receive the tax rate adjustment for tax year 2009, the department will mail applications to taxpayers ~~in August, 2009,~~ advising them that completed applications must be postmarked on or before the due date preprinted on the application form, and returned to the department if they wish to be considered for the tax rate adjustment. The preprinted due date will be 30 calendar days from the date of the application being mailed to the taxpayer by the department. This notification will also advise the applicants that applications postmarked after the preprinted due date will not be considered for the tax rate adjustment.

(b) through 16 remain as proposed.

AUTH: 15-1-201, MCA

IMP: 15-6-193, MCA

4. Therefore, the department amends ARM 42.19.406 with the amendment shown above.

5. An electronic copy of this Adoption Notice is available through the department's site on the World Wide Web at www.mt.gov/revenue, under "for your reference"; "DOR administrative rules"; and "upcoming events and proposed rule changes." The department strives to make the electronic copy of this Adoption Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version

of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

/s/ Cleo Anderson
CLEO ANDERSON
Rule Reviewer

/s/ Dan R. Bucks
DAN R. BUCKS
Director of Revenue

Certified to Secretary of State September 14, 2009

BEFORE THE SECRETARY OF STATE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT AND
ARM 44.2.202, 44.2.203, 44.5.121,) REPEAL
and repeal of 44.5.111 regarding fees)
and procedures pertaining to the)
Business Services Division)

TO: All Concerned Persons

1. On August 13, 2009, the Secretary of State published MAR Notice No. 44-2-155 pertaining to the proposed amendment and repeal of the above-stated rules at page 1401 of the 2009 Montana Administrative Register, Issue Number 15.

2. The Secretary of State has amended and repealed the above-stated rules as proposed.

3. No comments or testimony were received.

/s/ JORGE QUINTANA
Jorge Quintana
Rule Reviewer

/s/ LINDA MCCULLOCH
Linda McCulloch
Secretary of State

Certified to the Secretary of State September 14, 2009.

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.

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 a soft back, bound 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 June 30, 2009. This table includes those rules adopted during the period July 1, 2009, through September 30, 2009, and any proposed rule action that was pending during the past six-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 June 30, 2009, this table, and the table of contents of this issue of the MAR.

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 the 2009 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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BOARD 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 August 2009 appear. Vacancies scheduled to appear from October 1, 2009, through December 31, 2009, 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 September 1, 2009.

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.

BOARD AND COUNCIL APPOINTEES FROM AUGUST, 2009

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Crime Control (Justice)			
Ms. Randi Hood Helena	Governor	Oppedahl	8/27/2009 1/1/2011
Qualifications (if required): criminal justice agency representative			
Board of Sanitarians (Labor and Industry)			
Ms. Susan Brueggeman Polson	Governor	Cormier	8/27/2009 7/1/2011
Qualifications (if required): sanitarian			
Board of Water Well Contractors (Natural Resources and Conservation)			
Mr. Kevin Haggerty Bozeman	Governor	reappointed	8/27/2009 7/1/2012
Qualifications (if required): water well contractor			
Community Service Commission (Labor and Industry)			
Ms. Karin Billings Helena	Governor	reappointed	8/27/2009 7/1/2012
Qualifications (if required): agency representative			
Mr. John Ilgenfritz Helena	Governor	reappointed	8/27/2009 7/1/2012
Qualifications (if required): public representative			
Mr. Chris Kolstad Ledger	Governor	reappointed	8/27/2009 7/1/2012
Qualifications (if required): public representative			

BOARD AND COUNCIL APPOINTEES FROM AUGUST, 2009

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Community Service Commission (Labor and Industry) cont.			
Col. Scott Smith Fort Harrison Qualifications (if required): agency representative	Governor	Dennison	8/27/2009 7/1/2012
Mr. Chas Van Genderen Helena Qualifications (if required): agency representative	Governor	Murphy	8/27/2009 7/1/2012
Flathead Basin Commission (Natural Resources and Conservation)			
Ms. Jan Metzmaker Whitefish Qualifications (if required): public representative	Governor	reappointed	8/27/2009 10/1/2013
Mr. Thompson R. Smith Charlo Qualifications (if required): public representative	Governor	reappointed	8/27/2009 10/1/2013
Ms. Margaret Sogard Bigfork Qualifications (if required): public representative	Governor	reappointed	8/27/2009 10/1/2013
Historical Preservation Review Board (Historical Society)			
Mr. Donald Matlock Hamilton Qualifications (if required): public representative	Governor	reappointed	8/27/2009 10/1/2013

BOARD AND COUNCIL APPOINTEES FROM AUGUST, 2009

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Montana Heritage Preservation and Development Commission (Commerce)			
Ms. Barbie Durham Cameron	Governor	Oliver	8/27/2009 5/23/2012
Qualifications (if required): business person			
Mr. F.W. Bill Howell West Yellowstone	Governor	reappointed	8/27/2009 5/23/2012
Qualifications (if required): tourist facility manager			
Petroleum Tank Release Compensation Board (Environmental Quality)			
Mr. Daniel Annala Geysers	Governor	Michels	8/27/2009 6/30/2012
Qualifications (if required): public member			
Mr. Roy Morris Butte	Governor	Michels	8/27/2009 6/30/2012
Qualifications (if required): service station dealer			
Vocational Rehabilitation Council (Public Health and Human Services)			
Ms. Chanda Hermanson Helena	Governor	Winslow	8/19/2009 10/1/2010
Qualifications (if required): advocacy program representative			

VACANCIES ON BOARDS AND COUNCILS -- October 1, 2009 through December 31, 2009

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Board of Athletic Trainers (Labor and Industry) Mr. George Harper, Helena Qualifications (if required): public representative</p>	Governor	10/1/2009
<p>Mr. Shawn Ruff, Great Falls Qualifications (if required): athletic trainer in a secondary school</p>	Governor	10/1/2009
<p>Board of Outfitters (Governor) Mr. Shawn McNeely, Bozeman Qualifications (if required): fishing and hunting outfitter</p>	Governor	10/1/2009
<p>Mr. Lee Kinsey, Livingston Qualifications (if required): fishing outfitter</p>	Governor	10/1/2009
<p>Capital Finance Advisory Council (Administration) Attorney Mike McGrath, Helena Qualifications (if required): Attorney General</p>	Governor	11/22/2009
<p>Mr. Fred Flanders, Helena Qualifications (if required): representative of the Montana Higher Educational Student Assistance Corporation</p>	Governor	11/22/2009
<p>Rep. David Ewer, Helena Qualifications (if required): Budget Director</p>	Governor	11/22/2009
<p>Secretary of State Linda McCulloch, Helena Qualifications (if required): Secretary of State</p>	Governor	11/22/2009

VACANCIES ON BOARDS AND COUNCILS -- October 1, 2009 through December 31, 2009

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Capital Finance Advisory Council (Administration) cont. Director Janet Kelly, Helena Qualifications (if required): Department of Administration Director	Governor	11/22/2009
Sen. Rick Laible, Victor Qualifications (if required): Legislator	Governor	11/22/2009
Director Mary Sexton, Helena Qualifications (if required): Department of Natural Resources Director	Governor	11/22/2009
Director Anthony Preite, Helena Qualifications (if required): Department of Commerce Director	Governor	11/22/2009
Director Richard Opper, Helena Qualifications (if required): Department of Environmental Quality Director	Governor	11/22/2009
Director Jim Lynch, Helena Qualifications (if required): Department of Transportation Director	Governor	11/22/2009
Mr. J.P. Crowley, Helena Qualifications (if required): Board of Housing representative	Governor	11/22/2009
Ms. Teresa Cohea, Helena Qualifications (if required): Board of Investments representative	Governor	11/22/2009
Rep. Franke Wilmer, Bozeman Qualifications (if required): Legislator	Governor	11/22/2009

VACANCIES ON BOARDS AND COUNCILS -- October 1, 2009 through December 31, 2009

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Capital Finance Advisory Council (Administration) cont. Mr. Stephen M. Barrett, Bozeman Qualifications (if required): Board of Regents representative</p>	Governor	11/22/2009
<p>Mr. Bill Kearns, Townsend Qualifications (if required): Facility Finance Authority representative</p>	Governor	11/22/2009
<p>Atty. General Steve Bullock, Helena Qualifications (if required): Attorney General</p>	Governor	11/22/2009
<p>Correctional Enterprises Advisory Council (Corrections) Ms. Peggy Grimes, Missoula Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Sen. Kim Gillan, Billings Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Rep. Mike Jopek, Whitefish Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Mr. Larry Mayo, Butte Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Dr. David Yarlott, Crow Agency Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Mr. Gerald Bender, Deer Lodge Qualifications (if required): public representative</p>	Governor	10/17/2009

VACANCIES ON BOARDS AND COUNCILS -- October 1, 2009 through December 31, 2009

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Correctional Enterprises Advisory Council (Corrections) cont. Ms. Cheryl Moore-Gough, Bozeman Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Mr. Mike Monforton, Bozeman Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Mr. Brian Sheridan, Missoula Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Commissioner Joe Brenneman, Kalispell Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Corrections Advisory Council (Corrections) Sen. Jim Shockley, Victor Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Lt. Governor John Bohlinger, Helena Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Sen. Trudi Schmidt, Great Falls Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Sen. Steve Gallus, Butte Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Judge Kurt Krueger, Butte Qualifications (if required): public representative</p>	Governor	10/17/2009

VACANCIES ON BOARDS AND COUNCILS -- October 1, 2009 through December 31, 2009

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Corrections Advisory Council (Corrections) cont. Rep. Tim Callahan, Great Falls Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Commissioner Allan Underdal, Shelby Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Mr. Bob Peake, Helena Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Ms. Emily Matt Salois, Missoula Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Sheriff Dave Castle, Great Falls Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>County Attorney George Corn, Hamilton Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Mr. Kevin Madman, Browning Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Mr. Channis Whiteman, Crow Agency Qualifications (if required): public representative</p>	Governor	10/17/2009
<p>Ms. Kris Copenhaver, Billings Qualifications (if required): public representative</p>	Governor	10/17/2009

VACANCIES ON BOARDS AND COUNCILS -- October 1, 2009 through December 31, 2009

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Crime Victims Advisory Council (Corrections) Ms. Anita Richards, Seeley Lake Qualifications (if required): Victim	Director	12/1/2009
Ms. Mikie Hajek, Great Falls Qualifications (if required): Crime Victim and Cascade County victim/witness advocate	Director	12/1/2009
Ms. Tanya Campbell, no city listed Qualifications (if required): Crime Victim and Missoula County victim/witness advocate	Director	12/1/2009
Rep. Tim Furey, Milltown Qualifications (if required): mother of a negligent homicide (DUI) victim	Director	12/1/2009
Ms. Rose Everett, no city listed Qualifications (if required): Victim and professional mediator	Director	12/1/2009
Ms. Darla Gillespie, no city listed Qualifications (if required): Victim and Dawson County victim/witness advocate	Director	12/1/2009
Ms. Cathy Johnson, no city listed Qualifications (if required): Victim Services staff/Board of Pardons and Parole	Director	12/1/2009
Ms. Eve Malo, no city listed Qualifications (if required): Victim/professor of Restorative Justice at UM-Dillon	Director	12/1/2009
Ms. Linda Moodry, no city listed Qualifications (if required): Montana State Prison Victim Information Officer	Director	12/1/2009

VACANCIES ON BOARDS AND COUNCILS -- October 1, 2009 through December 31, 2009

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Crime Victims Advisory Council (Corrections) cont.		
Ms. Linda Paulsen, no city listed Qualifications (if required): Victim of attempted deliberate homicide	Director	12/1/2009
Ms. Lori Ruttenbur, no city listed Qualifications (if required): Victim	Director	12/1/2009
Ms. Annamae Siegfried-Derrick, Qualifications (if required): Montana Women's Prison Victim Information Officer	Director	12/1/2009
Ms. Wendy Sturn, no city listed Qualifications (if required): Board of Crime Control staff	Director	12/1/2009
Ms. Dawn Wakefield, no city listed Qualifications (if required): Victim	Director	12/1/2009
Mr. Jeff Walter, no city listed Qualifications (if required): Victim Services staff/Board of Pardons and Parole	Director	12/1/2009
Flathead Basin Commission (Natural Resources and Conservation)		
Ms. Jan Metzmaker, Whitefish Qualifications (if required): public representative	Governor	10/1/2009
Ms. Margaret Sogard, Bigfork Qualifications (if required): public representative	Governor	10/1/2009
Mr. Thompson R. Smith, Charlo Qualifications (if required): public representative	Governor	10/1/2009

VACANCIES ON BOARDS AND COUNCILS -- October 1, 2009 through December 31, 2009

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Historical Preservation Review Board (Historical Society) Mr. Donald Matlock, Hamilton Qualifications (if required): public representative	Governor	10/1/2009
Montana Alfalfa Seed Committee (Agriculture) Mr. Tim Wetstein, Joliet Qualifications (if required): alfalfa seed grower	Governor	12/21/2009
Mr. John Wold, Laurel Qualifications (if required): alfalfa seed grower	Governor	12/21/2009
Statewide Independent Living Council (Public Health and Human Services) Ms. Peggy Williams, Helena Qualifications (if required): Independent Living Center representative	Governor	12/1/2009
Rep. Carol Lambert, Broadus Qualifications (if required): public representative	Governor	12/1/2009
Sen. Gerald Pease, Lodge Grass Qualifications (if required): public representative	Governor	12/1/2009
Mr. Robert Bushing, Billings Qualifications (if required): public representative	Governor	12/1/2009
Mr. Gerald Hutch, Helena Qualifications (if required): public representative	Governor	12/1/2009

VACANCIES ON BOARDS AND COUNCILS -- October 1, 2009 through December 31, 2009

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
<p>Statewide Independent Living Council (Public Health and Human Services) cont. Mr. Dave Swanson, Billings Qualifications (if required): public representative from the disabilities community</p>	Governor	12/1/2009
<p>Vocational Rehabilitation Council (Public Health and Human Services) Ms. Ruth Straley, Helena Qualifications (if required): business representative</p>	Governor	10/1/2009
<p>Mr. Ronald Mills, Miles City Qualifications (if required): representative of the disabilities community</p>	Governor	10/1/2009
<p>Ms. Denise Corrao, Miles City Qualifications (if required): representative of the disabilities community</p>	Governor	10/1/2009
<p>Ms. Andrea Falcon, Kalispell Qualifications (if required): business representative</p>	Governor	10/1/2009