ISSUE NO. 8

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 The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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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PROPOSAL NOTICE SECTION

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 17.53.105 pertaining to incorporation by reference	))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT (HAZARDOUS WASTE)

TO: All Concerned Persons

1. On May 16, 2013, at 1:30 p.m., the Department of Environmental Quality will hold a public hearing in Room 35, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The 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 Elois Johnson, Paralegal, no later than 5:00 p.m., May 6, 2013, to advise us of the nature of the accommodation that you need. Please contact Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail ejohnson@mt.gov.

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

17.53.105 INCORPORATION BY REFERENCE (1) and (2) remain the same.

(3) Except as provided in (4), ~~R~~references in this chapter that incorporate 40 CFR 60, 61, 63, 124, 260 through 268, 270, 273, or 279 refer to the version of that publication revised as of July 1, ~~2008~~ 2012. References in this chapter to 40 CFR 124, 260 through 268, 270, 273, or 279 that incorporate publications refer to the version of the publication as specified at 40 CFR 260.11. Provisions within 40 CFR 60, 61, and 63 that are referenced in 40 CFR 124, 260 through 268, 270, 273, or 279 are also incorporated by reference.

(4) For the purposes of this chapter, the department ~~adopts and incorporates by reference the final rules published in the Federal Register at 73 FR 72912 on December 1, 2008, "Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated With Colleges and Universities," to be codified at 40 CFR 261 and 262~~ does not adopt and incorporate by reference the final rules published in the Federal Register at 73 FR 64668 on October 30, 2008, "Revisions to the Definition of Solid Waste," to be codified at 40 CFR 260, 261, and 270.

(5) through (8) remain the same.

AUTH: 75-10-405, MCA

IMP: 75-10-405, MCA

REASON: The department is proposing to amend ARM 17.53.105 to incorporate by reference the most recent version of the Code of Federal Regulations (CFR). The incorporation by reference process is accomplished by amending the CFR publication date specified in ARM 17.53.105(3). The proposed amendment allows the department to follow the most recent edition of federal regulations to maintain consistency with EPA regulations and preserve the hazardous waste program authorization.

The proposed amendment to ARM 17.53.105(4) deletes the incorporation by reference of the federal regulations published in 73 FR 72912. This incorporation by reference is no longer necessary because the federal regulations promulgated in that notice are being proposed for adoption by incorporation in ARM 17.53.105(3). Additionally, the department proposes to exclude the revised federal definition of solid waste (DSW) provided for in 40 CFR 260, 261, and 270. The EPA adopted DSW published in the Federal Register at 73 FR 64668 on October 30, 2008. The DSW was an optional rule and was not required as a condition to maintain the standards and requirements of delegated authority under 40 CFR 271 and the provisions of section 3006 of the Resource Conservation and Recovery Act (42 USC 6901 et seq.). The rule was also the subject of a legal challenge and EPA agreed to reconsider the 2008 definition. In July of 2011, the EPA proposed, but has not adopted, a new definition of solid waste that addresses the legal challenge filed. The department determined the DSW would not add to, or detract from, the existing regulatory framework in place to protect human health and the environment. As a result of these factors, the department chose not to adopt the regulation. Since the 2008 definition is included in the overall incorporation by reference, the exclusion amendment provided in (4) makes clear that the definition of solid waste will not be incorporated in this rulemaking.

4. A link to the 2012 version of 40 CFR Chapters 60, 61, 63, 124, 260 through 268, 270, 273, or 279 is available on the department's web site at http://deq.mt.gov/HazWaste/PDFs/DefinitionSolidWasteFinalRule.pdf. The link may be accessed directly at http://www.ecfr.gov.

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 Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to ejohnson@mt.gov, no later than 5:00 p.m., May 23, 2013. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

6. Carol Schmidt, attorney, has been designated to preside over and conduct the hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have

their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. 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 Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; e-mailed to ejohnson@mt.gov; 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.

Reviewed by: DEPARTMENT OF ENVIRONMENTAL QUALITY

/s/ John F. North BY: */s/ Tracy Stone-Manning*
JOHN F. NORTH TRACY STONE-MANNING, Director
Rule Reviewer

Certified to the Secretary of State, April 15, 2013.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the adoption of NEW RULES I through IV, and the amendment of ARM 24.29.1401A, 24.29.1402, 24.29.1406, 24.29.1432, 24.29.1510, 24.29.1513, 24.29.1515, 24.29.1522, 24.29.1533, 24.29.1538, pertaining to medical services rules for workers' compensation matters	))))))))))	NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION AND AMENDMENT

TO: All Concerned Persons

1. On May 16, 2013, at 1:00 p.m., the Department of Labor and Industry (department) will hold a public hearing in the auditorium of the DPHHS Building, 111 North Sanders, Helena, Montana, to consider the proposed adoption and amendment of the above-stated rules.

2. The 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 department no later than 5:00 p.m., on May 10, 2013, to advise us of the nature of the accommodation that you need. Please contact the Employment Relations Division, Department of Labor and Industry, Attn: Bill Wheeler, Department of Labor and Industry, P.O. Box 8011, Helena, MT 59604-8011; telephone (406) 444-6541; fax (406) 444-4140; TDD (406) 444-5549; or e-mail bwheeler@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: There is reasonable necessity to adopt and amend rules to implement Chapter 167, Laws of 2011 (House Bill 334), which reformed the workers' compensation system in Montana. In order to make the rules easier to use for customers who process workers' compensation claims, the proposed new rules and amendments are designed to apply to specific time periods. The proposed new rules use the language from the previous rules and make changes where necessary.

One change made throughout is that the proposed rules call the fee schedule for professional services, the professional fee schedule, rather than the nonfacility fee schedule. The proposed changes make clear that professional services are to be billed according to the professional fee schedule, whether a professional is independent or is employed by a facility.

In addition, because the legislation froze the medical fee schedule rates until July 1, 2013, there is reasonable necessity to set new rates at this time. For the facility fee schedule, the proposed increase to the current Montana base rate for inpatient facilities services is 2.7 percent and is based on the percent change in Medicare's inpatient base rate from 2012 to 2013. The proposed increase to the current Montana base rate for outpatient facility services is approximately 2 percent

and is based on the percent change in Medicare's outpatient base rate from 2012 to 2013. The proposed changes take into account the data that was provided by Montana hospitals for development of the new fee schedule base rate. For the professional fee schedule, the rate is determined per statute and is the average of the conversion factors of the top five group health insurers who use the same RVU methodology, plus an additional 10 percent. The conversion factor for health services excluding anesthesiology is $60.52. The conversion factor for anesthesiology is $61.40.

The legislation also provided that certain medical codes used to calculate reimbursements would automatically update based on standards as adopted by the Centers for Medicare and Medicaid Services on specific dates. Previous to the legislation, only two types of medical codes updated by statute. Chapter 167 provided that all the pertinent codes now update by statute. The proposed changes indicate how the department will inform customers of those statutory updates, so that customers can properly calculate reimbursements.

The department proposes to make the proposed adoptions and amendments effective as of July 1, 2013, subject to input from comments received. The department reserves the right to make the adoptions and amendments effective at a later date, or not at all. The department reserves the right to adopt or amend only some of the rules identified in this notice. Any updates to these rules must be undertaken by the department according to the requirements of the Montana Administrative Procedure Act. This general statement of reasonable necessity applies to all of the rules proposed for adoption and amendment and will be supplemented as necessary for any given rule.

4. The proposed new rules provide as follows:

NEW RULE I FACILITY SERVICE RULES AND RATES FOR SERVICES PROVIDED ON OR AFTER JULY 1, 2013 (1) The department adopts the fee schedules provided by this rule to determine the reimbursement amounts for medical services provided by a facility when a person is discharged on or after July 1, 2013. An insurer is obligated to pay the fee provided by the fee schedules for a service, even if the billed charge is less, unless the facility and insurer have a managed care organization (MCO) or preferred provider organization (PPO) arrangement that provides for a different payment amount. The fee schedules are available on-line at the Employment Relations Division web site and are updated as soon as is reasonably feasible relative to the effective dates of the medical codes as described below. The fee schedules are comprised of the following elements, which apply unless a special code or description is otherwise provided by rule:

(a) The Montana Hospital Inpatient Services MS-DRG Reimbursement Fee Schedule, based on CMS version 30 for dates of discharge from July 1, 2013 to September 30, 2013. Pursuant to 39-71-704, MCA, the MS-DRG in effect on October 1 of each year are to be applied to a medical service for billing and reimbursement purposes;

(b) The Montana Hospital Outpatient and ASC Fee Schedule Organized by APC. Pursuant to 39-71-704, MCA, the APC in effect on March 31 of each year are to be applied to a medical service for billing and reimbursement purposes;

(c) The Montana Hospital Outpatient and ASC Fee Schedule Organized by CPT/HCPCS. Pursuant to 39-71-704, MCA, the CPT/HCPCS in effect on March 31 of each year are to be applied to a medical service for billing and reimbursement purposes;

(d) The Montana CCI Code Edits listing with the Medically Unlikely Edits (MUE). Pursuant to 39-71-704, MCA, the CCI Codes Edits and MUE in effect on March 31 of each year are to be applied to a medical service for billing and reimbursement purposes;

(e) The Montana CCR and other Montana CCR-based Calculations, based on CMS version 30 for dates of discharge from July 1, 2013 to September 30, 2013 Pursuant to 39-71-704, MCA, the CCR in effect on October 1 of each year are to be applied to a medical service for billing and reimbursement purposes;

(f) The Montana Status Indicator (SI) Codes;

(g) The Montana unique code, MT003, described in (11)(e) and (12)(f);

(h) The base rates and conversion formulas established by the department; and

(i) The publication, "Montana Workers' Compensation Facility Fee Schedule Instruction Set for Services Provided on or after July 1, 2013," incorporated by reference.

(2) The application of the base rate depends on the date the medical services are provided.

(3) Critical access hospitals (CAH) are reimbursed at 100 percent of that facility's usual and customary charges. CAH is a designation for a facility only. The reimbursement rate for CAH set by this rule does not include or apply to professional services provided at a CAH. Such professional services must be reimbursed pursuant to [New Rule IV], whether the professional is a CAH employee or is independent.

(4) Any services provided by a type of facility not explicitly addressed by this rule or any services using new codes not yet adopted by this rule must be paid at 75 percent of the facility's usual and customary charges.

(5) Any inpatient rehabilitation services, including services provided at a long-term inpatient rehabilitation facility must be paid at 75 percent of that facility's usual and customary charges. All CMS rehabilitation MS-DRGs are excluded from the Montana MS-DRG payment system and instead are paid at 75 percent of the facility's usual and customary charges regardless of the place of service.

(6) DME, prosthetics, and orthotics, excluding implantables, will be paid according to the [New Rule III].

(7) Facility billing must be submitted on a CMS Uniform Billing (UB04) form, including the 837-I form when submitting electronically.

(8) Hospitals and ASCs must, on an annual basis, submit to the department data reporting Medicare, Medicaid, commercial, unrecovered, and workers' compensation claims reimbursement in a standard form supplied by the department.

The department may in its discretion conduct audits of any facility's financial records to confirm the accuracy of submitted information.

(9) Medical provider services furnished in a hospital, CAH, ASC, or other facility setting, whether those professional services are furnished as an employee of the facility or as an independent professional, must be billed separately using the CMS 1500 and must be reimbursed using the professional fee schedule. Those reimbursements are excluded from any calculation of outlier payments.

(10) Facility pharmacy reimbursements are made as follows:

(a) If a facility pharmacy dispenses prescription drugs to an individual during the course of treatment in the facility, reimbursement is part of the MS-DRG or APC reimbursement.

(b) If a patient's medications are not included in the MS-DRG or APC service bundle, the reimbursement will be according to ARM 24.29.1529.

(11) The following applies to inpatient services provided at an acute care hospital:

(a) The department may establish the base rate annually.

(i) Effective July 1, 2013, the base rate is $7,944.

(b) Payments for inpatient acute care hospital services must be calculated using the base rate multiplied by the Montana MS-DRG weight. For example, if the MS-DRG weight is 0.5, the amount payable is $3,972, which is the base rate of $7,944 multiplied by 0.5.

(c) If a service falls outside of the scope of the MS-DRG and is not otherwise listed on a Montana fee schedule, including new codes not yet adopted, reimbursement for that service must be 75 percent of that facility's usual and customary charges.

(d) The threshold for outlier payments is three times the Montana MS-DRG payment amount. If the outlier threshold is met, the outlier payment must be the MS-DRG reimbursement amount plus an amount that is determined by multiplying the charges above the threshold by the sum of 15 percent and the individual hospital's Montana CCR.

(i) For example, if the hospital submits total charges of $100,000, the MS-DRG reimbursement amount is $25,000, and the CCR is 0.50, then the resultant calculation for reimbursement is as follows: The DRG reimbursement amount ($25,000) is multiplied by 3 to set the threshold trigger ($75,000). The threshold trigger ($75,000) is subtracted from the total charges ($100,000) resulting in the amount above the trigger ($25,000). The amount above the trigger ($25,000) is then multiplied by .65 (which is the CCR of .5 plus .15) to obtain the outlier payment ($16,250). The total payment to the hospital in this example would be the DRG reimbursement amount ($25,000) plus the outlier payment ($16,250) = $41,250.

(ii) The department may establish the inpatient outlier amount annually.

(e) Where an implantable exceeds $10,000 in cost, hospitals may seek additional reimbursement beyond the normal MS-DRG payment. Hospitals may seek additional reimbursement by using Montana unique code MT003. Any implantable that costs less than $10,000 is bundled in the implantable charge included in the MS-DRG payment.

(i) Any reimbursement for implantables pursuant to this subsection must be documented by a copy of the invoice for the implantable (or purchase order if it lists the number of items, the wholesale price, and the shipping costs) and the operative report. Insurers are subject to privacy laws concerning disclosure of health or proprietary information.

(ii) Reimbursement is set at a total amount that is determined by adding the actual amount paid for the implantable on the invoice, plus 15 percent of the actual amount paid for the implantable, plus the handling and freight cost for the implantable. Handling and freight charges must be included in the implantable reimbursement and are not to be reimbursed separately.

(iii) When a hospital seeks additional reimbursement pursuant to this subsection, the implantable charge is excluded from any calculation for an outlier payment.

(iv) Because the decision regarding an implantable is a complex medical analysis, this rule defers to the judgment of the individual physician and facility to determine the appropriate implantable. A payer may not reduce the reimbursement when the medical decision is to use a higher cost implantable.

(f) All facility services provided during an uninterrupted patient encounter leading to an inpatient admission must be included in the inpatient stay, except air and ground ambulance services which are paid separately pursuant to the Montana Ambulance Fee schedule. Air ambulances whose charter and certification is through the federal Department of Transportation will be paid at 100 percent of their usual and customary charges pursuant to federal law.

(g) The following applies to facility transfers when a patient is transferred for continuation of medical treatment between two acute care hospitals:

(i) A hospital receiving a patient is paid the full MS-DRG payment plus any appropriate outliers and add-ons.

(ii) Facility transfers do not include costs related to transportation of a patient to initially obtain medical care. Such reimbursements are covered by ARM 24.29.1409.

(12) The following applies to outpatient services provided at an acute care hospital or an ASC:

(a) The department may establish the base rate for outpatient service at acute care hospitals annually.

(i) The base rate for hospital outpatient services is $107.

(b) The department may establish the base rate for ASCs annually.

(i) The base rate for ASCs is $80, which is 75 percent of the hospital outpatient base rate.

(c) Payments for outpatient services in a hospital or an ASC are based on the Montana APC system. A single outpatient visit may result in more than one APC for that claim. The payment must be calculated by multiplying the base rate times the APC weight. If an APC code is available, the services must be billed using the APC code. If the APC weight is not listed or if the APC weight is listed as null, reimbursement for that service must be paid at 75 percent of the facility's usual and customary charges. Examples of such services include but are not limited to laboratory tests and radiology. If a service falls outside of the scope of the APC and

is not otherwise listed on a Montana fee schedule, reimbursement for that service must be 75 percent of that facility's usual and customary charges.

(d) CCI and MUE code edits must be used to determine bundling and unbundling of charges.

(e) Outpatient medical services include observation in an outpatient status.

(f) Where an outpatient implantable exceeds $500 in cost, hospitals or ASCs may seek additional reimbursement beyond the normal APC payment. In such an instance, the provider may bill using Montana unique code MT003. Any implantable that costs less than $500 is bundled in the APC payment.

(i) Any reimbursement for implantables pursuant to this subsection must be documented by a copy of the invoice for the implantable (or purchase order if it lists the number of items, the wholesale price, and the shipping cost) and the operative report. Insurers are subject to privacy laws concerning disclosure of health or proprietary information.

(ii) Reimbursement is set at a total amount that is determined by adding the actual amount paid for the implantable on the invoice plus 15 percent of the actual amount paid for the implantable, plus the handling and freight cost for the implantable. Handling and freight charges must be included in the implantable reimbursement and are not to be reimbursed separately.

(g) The following applies to patient transfers from an ASC to an acute care hospital:

(i) An ASC transferring a patient is paid the APC reimbursement.

(ii) The acute care hospital is paid the MS-DRG or the APC reimbursement, whichever is applicable.

(iii) Facility transfers do not include costs related to transportation of a patient to initially obtain medical care. Such reimbursements are covered by ARM 24.29.1409.

AUTH: 39-71-203, MCA
IMP: 39-71-704, MCA

REASON: There is reasonable necessity to establish a new rule for facility services provided on or after July 1, 2013. The proposed rule is modeled after ARM 24.29.1432. The following indicates where proposed changes were made to that rule.

The medical coding updates now required by 39-71-704(2)(d), MCA, are incorporated into the rule. The statute adopts CPT, HCPCS, MS-DRG, APC, CCR, CCI, and MUE changes annually. The proposed rule indicates that the department's web site will reflect those annual changes, so that customers can determine proper reimbursement amounts.

In (1)(d) and (12)(d), Medically Unlikely Edits (MUEs) are added because they are needed for the Correct Coding Initiative (CCI) for accurate medical billing and payment. For (12)(d), the CCI and MUE determine correct bundling and unbundling.

In (3), "critical access hospital" is a facility designation and not a professional services designation. The proposed change makes the rule match Medicare's approach to CAH billing by clarifying that the statutory reimbursement requirement

for critical access hospitals only applies to the facilities, and that the professional services are not to be reimbursed at 100 percent of usual and customary charges. Professional services should be paid under the professional fee schedule. There is reasonable necessity for this change to clarify the separation of CAH facility designation from professional services for billing and reimbursement processes. Because some CAH have been billing professional services under the facility fee schedule, it is necessary to clarify they are to be reimbursed using the professional fee schedule.

Regarding (4), the facility fee schedule is based on Medicare DRG, HCPCS, and APC codes and on the American Medical Association's CPT codes, which are updated more frequently than the Montana facility fee schedule. This clarifies how new codes not specifically referenced in the fee schedule are to be paid.

In (6), the proposed change regarding DME, prosthetics, and orthotics makes the reimbursement the same for facilities and professionals and thereby creates uniformity and consistency for billing and reimbursement of these items.

In (7), there is reasonable necessity to require facility bills be submitted on this specific form so insurers know that it is a facility claim and not a professional claim, which facilitates the processing of the claim. The UB04 form is a universally used form for facility billing, as is 837-I form for electronic billing.

In (9), the change reflects the change in name of the nonfacility fee schedule to the professional fee schedule and makes clear that professional services provided at a facility must be reimbursed under the professional fee schedule rather than under the facility fee schedule. There is reasonable necessity for this change for clarification of billing and reimbursement processes because of a problem occurring in which facilities bill professional services, but do not use the professional fee schedule.

In (10)(b), the proposed change makes the reimbursement the same for facilities and professionals and thereby creates uniformity in billing and payment of medications through ARM 24.29.1529 as well as both the facility and professional fee schedules.

There is reasonable necessity to update the hospital inpatient base rate in (11)(a)(i) from the 2010 freeze. The new proposed base rate is an increase of 2.7 percent which aligns with Medicare's base rate increase from 2012 to 2013.

As in (4), the proposed change in (11)(c) clarifies how new codes not specifically referenced in the fee schedule are to be paid.

In (11)(e) and (12)(f), the American Medical Association code previously used for implantables is no longer a generic code, therefore there is reasonable necessity to create a Montana unique code, MT003, in this rule. The new language also clarifies the 15 percent allowed profit is not applied to handling and freight. There is reasonable necessity to require submission of the operative report to address the problem that some bills have sought reimbursement for all implantables on an invoice, not just the one used on the injured worker.

There is reasonable necessity to change the outpatient base rate in (12)(a)(i) due to the 2010 freeze. The new proposed base rate is an increase of approximately 2.0 percent which aligns with Medicare's proposed base rate increase from 2012 to 2013.

In (12)(c), the requirement to use an APC code if available prevents unbundling of charges. There is reasonable necessity to require that if an APC code is available, the services must be billed using the APC code because billing has unbundled charges to increase the reimbursement. Also, therapies are removed, because those services should be billed under the professional fee schedule.

NEW RULE II SELECTION OF PHYSICIAN FOR CLAIMS ARISING ON OR AFTER JULY 1, 2013 (1) For claims arising on or after July 1, 2013, "treating physician" has the meaning provided by 39-71-116, MCA.

(2) The worker has a duty to select a treating physician. Initial treatment in an emergency room or urgent care facility is not selection of a treating physician. The selection of a treating physician must be made as soon as practicable. A worker may not avoid selection of a treating physician by repeatedly seeking care in an emergency room or urgent care facility. The worker should select a treating physician with due consideration for the type of injury or occupational disease suffered, as well as practical considerations such as the proximity and the availability of the physician to the worker.

(3) Any time after an insurer accepts liability for an injury or occupational disease or pays under a right of reservation, the insurer may recognize a treating physician selected by the injured worker. The treating physician is compensated at 100 percent of the fee schedule.

(4) After acceptance of liability, the insurer may formally approve the treating physician selected by the injured worker as a designated treating physician or may choose a different physician to be the designated treating physician. The designated treating physician is compensated at 110 percent of the fee schedule.

(a) The designated treating physician is responsible for coordination of all medical care, pursuant to 39-71-1101(2), MCA. The designated treating physician must agree to accept these responsibilities.

(b) The insurer must provide formal notification of the designated treating physician by e-mail, facsimile, or letter to:

(i) the injured worker;

(ii) the current treating physician; and

(iii) the designated treating physician. The effective date of the designation of treating physician is the date the insurer sends the notice of designation unless the physician declines within ten working days.

(c) A health care provider who is referred by the designated treating physician is compensated at 90 percent of the fee schedule. These providers are not responsible for coordinating care or providing determinations as required by the designated treating physician.

(5) Treatment from a physician's assistant or an advanced practice nurse, when the treatment is under the direction of the treating physician, does not constitute a change of physician and does not require prior authorization pursuant to ARM 24.29.1517.

(6) Subject to 39-71-1101, MCA, ARM 24.29.1517, and any other applicable rule or statute, nothing in this rule prohibits the claimant from receiving treatment

from more than one physician if required by the claimant's injury or occupational disease.

AUTH: 39-71-203, MCA
IMP: 39-71-704, MCA

REASON: The 2011 Legislature, in amendments to 39-71-1101, MCA, gave insurers authority to approve or designate treating physicians. There is reasonable necessity to clarify the process by which this will take place. This rule is modeled after ARM 24.29.1510, but adds the new required procedure.

NEW RULE III MEDICAL EQUIPMENT AND SUPPLIES FOR DATES OF SERVICE ON OR AFTER JULY 1, 2013 (1) For both facility and professional services, reimbursement for DME dispensed through a medical provider is determined by the professional fee schedule in effect on the date of service, except for prescription medicines as provided by ARM 24.29.1529. On March 31 of each year, or as soon thereafter as is reasonably feasible, the professional fee schedule with updated HCPCS will be posted on the web site. If a RVU is not listed or if the RVU is listed as null, reimbursement is limited to a total amount that is determined by adding the cost of the item plus the lesser of either $30.00 or 30 percent of the cost of the item plus the freight cost. An invoice documenting the cost of the equipment or supply must be sent to the insurer upon the insurer's request.

(a) Copies of the instructions are available on the department web site or may be obtained at no charge from the Montana Department of Labor and Industry, P.O. Box 8011, Helena, Montana 59604-8011.

(2) If a provider adds value to DME (such as by complex assembly, modification, or special fabrication), then the provider may charge a reasonable fee for those services. Merely unpacking an item is not a "value-added" service. While extensive fitting of devices may be billed for, simple fitting (such as adjusting the height of crutches) is not billable.

AUTH: 39-71-203, MCA
IMP: 39-71-704, MCA

REASON: There is reasonable necessity to propose a new rule that is applicable to both facilities and professional services, for consistency and clarity. The proposed rule is modeled after ARM 24.29.1522, but adds facilities. The medical coding updates required by 39-71-704(2)(d), MCA, are incorporated into the rule. The statute adopts HCPCS changes annually. The proposed rule indicates that the department's web site will reflect those annual changes, so that customers can determine proper reimbursement amounts.

NEW RULE IV PROFESSIONAL FEE SCHEDULE FOR SERVICES PROVIDED ON OR AFTER JULY 1, 2013 (1) The department adopts the professional fee schedule provided by this rule to determine the reimbursement amounts for medical services provided by a professional provider at a nonfacility or

facility furnished on or after July 1, 2013. An insurer must pay the fee schedule or the billed charge, whichever is less, for a service provided within the state of Montana. The fee schedules are available on-line at the Employment Relations Division web site and are updated as soon as is reasonably feasible relative to the effective dates of the medical codes as described below. The fee schedules are comprised of the following elements, which apply unless a special code or description is otherwise provided by rule:

(a) the CPT codes, including the HCPCS Level II codes. Pursuant to 39-71-704, MCA, the CPT and HCPCS in effect on March 31 of each year are to be applied to a medical service for billing and reimbursement purposes;

(b) the RVU given in the RBRVS, based on the January 1, 2013 version of the RBRVS for services provided from July 1, 2013 to March 30, 2014. Pursuant to 39-71-704, MCA, the RVU given in the RBRVS in effect on March 31 of each year are to be applied to a medical service for billing and reimbursement purposes;

(c) the Correct Coding Initiative (CCI) Edits, including the Medically Unnecessary Edits (MUE). Pursuant to 39-71-704, MCA, the CCI Codes Edits and MUE in effect on March 31 of each year are to be applied to a medical service for billing and reimbursement purposes;

(d) the instruction set for the fee schedule called the "Montana Workers' Compensation Professional Fee Schedule Instruction Set for Services Provided on or after July 1, 2013". All the definitions, guidelines, RVUs, procedure codes, modifiers, and other explanations provided in the instructions set affecting the determination of individual fees apply. A copy of the instruction set may also be obtained at no charge from the Montana Department of Labor and Industry, P.O. Box 8011, Helena, Montana 59604-8011;

(e) the conversion factors established by the department in ARM 24.29.1538;

(f) modifiers, listed on the ERD web site;

(g) the Montana unique code, MT001, described in (7); and

(h) the Montana unique code, MT003, adopted and described in [New Rule I].

(2) the conversion factors, the CPT codes, and the RVUs used depend on the date the medical service, procedure, or supply is provided. The reimbursement amount is generally determined by finding the proper CPT code in the RBRVS then multiplying the RVU for that code by the conversion factor. For example, if the conversion factor is $5.00, and a procedure code has a unit value of 3.0, the most that the insurer is required to pay the provider for that procedure is $15.00.

(3) Where a procedure is not covered by these rules or uses a new code, the insurer must pay 75 percent of the usual and customary fee charged by the provider to nonworkers' compensation patients unless the procedure is not allowed by these rules.

(4) The maximum fee that an insurer is required to pay for a particular procedure is listed on the department web site and was computed using the RVU in the total facility or nonfacility column of the RBRVS times the conversion factor, except as otherwise provided for in these rules.

(5) Professionals who furnish services in a hospital, CAH, ASC, or other facility setting must bill insurers using the CMS 1500.

(6) Each provider is to limit services to those which can be performed within the provider's scope of license. For nonlicensed providers, the insurer is not required to reimburse above the related CPT codes for appropriate services.

(7) When billing the services listed below, the Montana unique code, MT001, must be used and a separate written report is required describing the services provided. The reimbursement rate for this code is 0.54 RVUs per 15 minutes with time documented by the provider. These requirements apply to the following services:

(a) face-to-face conferences with payor representative(s) to update the status of a patient upon request of the payor; or

(b) a report associated with nonphysician conferences required by the payor; or

(c) completion of a job description or job analysis form requested by the payor; or

(d) written questions that require a written response from the provider, excluding the Medical Status Form.

(8) Where a service is listed as "by report", the fee charged may not exceed the usual and customary fee charged by the provider to nonworkers' compensation patients.

(9) It is the responsibility of the provider to use the proper procedure, service, and supply codes on any bills submitted for payment. The failure of a provider to do so, however, does not relieve the insurer's obligation to pay the bill, but it may justify delays in payment until proper coding of the services provided is received by the insurer.

(10) Copies of the RBRVS are available from the publisher. Ordering information may be obtained from the department.

AUTH: 39-71-203, MCA
IMP: 39-71-704, MCA

REASON: There is reasonable necessity to propose a new rule for professional services to change the name of the fee schedule from nonfacility fee schedule to professional fee schedule and to clarify the separation of professional services from facility services. The proposed rule is modeled after ARM 24.29.1533. The proposal makes clear that insurers are to pay the lesser of the fee schedule or the billed amount. It is also necessary to clarify that for those procedures with new codes, the reimbursement amount is 75 percent of usual and customary charges. The medical coding updates required by 39-71-704(2)(d), MCA, are incorporated into the rule. The proposed rule indicates that the department's web site will reflect those annual changes, so that customers can determine proper reimbursement amounts. The proposal adds MUE and CCI Edits and clarifies procedures for billing and reimbursement under the updated fee schedule. The proposed rule also cross references the Montana unique code MT003.

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

24.29.1401A DEFINITIONS As used in subchapters 14 and 15, the following definitions apply:

(1) through (9) remain the same.

(10) "Designated Treating Physician" means a provider who is designated or formally approved by the insurer as the physician who will be coordinating the injured worker's care, according to the criteria in 39-71-1101, MCA.

(10) through (12) remain the same but are renumbered (11) through (13).

~~(13)~~(14) "Facility" or "health care facility" ~~has the meaning provided under 50-5-101, MCA, and the administrative rules implementing that definition, and is limited to only those facilities licensed or certified by the Department of Public Health and Human Services.~~ means all or a portion of an institution, building, or agency, private or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual. The term includes chemical dependency facilities, critical access hospitals, end-stage renal dialysis facilities, home health agencies, home infusion therapy agencies, hospices, hospitals, long-term care facilities, intermediate care facilities for the developmentally disabled, medical assistance facilities, mental health centers, outpatient centers for surgical services, rehabilitation facilities, residential care facilities, and residential treatment facilities. The above facilities are defined in 50-5-101, MCA. The term does not include outpatient centers for primary care, infirmaries, provider-based clinics, offices of private physicians, dentists or other physical or mental health care workers, including licensed addiction counselors.

(14) through (41) remain the same but are renumbered (15) through (42).

AUTH: 39-71-203, MCA
IMP: 39-71-116, 39-71-704, MCA

REASON: There is reasonable necessity to define the term "designated treating physician" due to the changes to 39-71-116 and 39-71-1101, MCA. There is also reasonable necessity to amend the previous definition of "facility", because the definition included outpatient centers for primary care and infirmaries. The proposed changes address a problem that was occurring in which outpatient centers for primary care were not using the professional fee schedule and were instead billing professional fees as a facility charge. The proposed change removes those terms so that those entities may only bill using the professional fee schedule and may not bill using the facility fee schedule as well. The proposed change makes clear that outpatient centers for primary care, infirmaries, provider-based clinics, and offices of private professionals are not facilities and are to be reimbursed using the professional fee schedule.

24.29.1402 PAYMENT OF MEDICAL CLAIMS (1) As required by 39-71-704, MCA, charges submitted by providers must be the usual and customary charge billed for nonworkers' compensation patients. Payment of medical claims must be

made in accordance with the schedule of facility and ~~nonfacility~~ professional medical fees adopted by the department.

(a) remains the same.

(b) For services provided on or after July 1, 2013, the department may assess a penalty on insurers for neglect or failure to use the correct fee schedule. It is the insurer's responsibility to ensure that the correct fee schedule is used by a third-party agent.

(i) If the insurer does not properly process the entire medical bill using the correct fee schedule within 60 days of the receipt, the department may assess a $200.00 penalty for each occurrence. Each medical bill is an occurrence.

(ii) This fine may be increased $100.00 per subsequent occurrence up to a maximum of $1,000.00.

(iii) The department will not assess any penalty unless the provider submits adequate documentation that they attempted to resolve the bill with the insurer. If the insurer does not correct the error, the provider may forward the billing, explanation of benefits, if any, and documentation of contact and responses to the department.

(iv) The insurer has the burden of proof to notify the department either by e-mail, facsimile, or letter that the bill(s) in question have been processed using the correct Montana fee schedule.

(v) The amounts collected from the insurer must be deposited with the department to be used in the Workers' Compensation Administration Fund.

(vi) An insurer may contest a penalty assessed pursuant to 39-71-107(5)(b), MCA, in a hearing conducted according to department rules. A party may appeal the final agency order to the workers' compensation court. The court shall review the order pursuant to the requirements of 2-4-704, MCA.

(2) The insurer shall make timely payments of all medical ~~claims~~ bills for which liability is accepted. For services provided on or after July 1, 2013, the department may assess a penalty on an insurer that without good cause neglects or fails to pay undisputed medical bills on an accepted liability claim within 60 days of receipt of the bill(s). The insurer must document receipt date of the bill(s) or the receipt date will be three days after the bill(s) was sent by the provider.

(a) If the insurer does not pay the undisputed portions of a medical bill within 60 days of receipt, the department may assess a $200.00 penalty for each occurrence. Each medical bill is an occurrence.

(b) This fine may be increased $100.00 per subsequent occurrence up to a maximum of $1,000.00.

(c) The department will not assess any penalty unless the provider submits adequate documentation that they attempted to resolve the bill with the insurer. If the insurer does not pay the undisputed bill(s), the provider may forward the billing, explanation of benefits, if any, and documentation of contact and responses to the department.

(d) The insurer has the burden of proof to notify the department either by e-mail, facsimile, or letter that the bill(s) in question have been paid.

(e) The amounts collected from the insurer must be deposited with the department to be used in the Workers' Compensation Administration Fund.

(f) An insurer may contest a penalty assessed pursuant to 39-71-107(5)(c), MCA, in a hearing conducted according to department rules. A party may appeal the final agency order to the workers' compensation court.

(3) For services provided on or after July 1, 2013, the provider may charge 1 percent per month simple interest for unpaid balances on an undisputed medical bill on a claim pursuant to 39-71-704, MCA. The interest will start accruing on the 31st day after receipt of the bill by the insurer. The insurer must document receipt date of the bill or the receipt date will be three days after the bill was sent by the provider. If there is no payment within 30 days, the provider may bill the insurer 1 percent per month on the unpaid balance. For purposes of coding billed amounts, the Montana unique code MT005 is established by this rule and must be used by the provider to bill the interest amount.

(4) For services provided on or after July 1, 2013, the insurer may charge a 1 percent per month simple interest for overpayment made to a provider pursuant to 39-71-704, MCA. The interest will start accruing on the 31st day after receipt by the provider of the reimbursement request. The provider must document the receipt date of the reimbursement request or the receipt date will be three days after the request was sent by the insurer. If there is no payment within 30 days of the provider's receipt of a reimbursement request or if the provider has not made alternative arrangements for repaying the overpayment within 30 days, the insurer may charge the provider 1 percent per month simple interest on the balance.

(3) through (6) remain the same but are renumbered (5) through (8).

(9) For compensable services provided on or after July 1, 2013, if the injured worker pays for the initial medical service prior to acceptance of the claim by the insurer, the injured worker must be reimbursed the entire amount they paid out-of-pocket within 30 days of acceptance.

(a) If the insurer pays the provider, the provider must reimburse the injured worker.

(b) Otherwise, the insurer must reimburse the injured worker.

(7) remains the same but is renumbered (10).

AUTH: 39-71-203, MCA
IMP: 39-71-203, 39-71-510, 39-71-704, MCA

REASON: Regarding (1), there is reasonable necessity to change the nonfacility fee schedule reference to the professional fee schedule to be consistent with the other rules and avoid confusion that has arisen regarding proper billing. Regarding (1)(b) and (2), Chapter 150, Laws of 2011 (House Bill 110) amended 39-71-107, MCA, to require workers' compensation insurers and their agents to pay medical providers using the proper fee schedule and in a timely manner. The legislation provided penalties on the insurer for failure to do either of these tasks. Subsections (1)(b)(i) through (vii) spell out the procedure and penalties for failure to use the proper fee schedule. Section (2) spells out the procedure and penalties for failure to pay on a timely basis. In addition, there is reasonable necessity to clarify the circumstances under which interest may be charged by either a provider or insurer for failure to pay or reimburse within 30 days. This is addressed above in (3) and (4). There is

reasonable necessity for (5) to clarify how an injured worker is to be reimbursed for initial medical care after liability has been accepted, because currently injured workers are not always being timely reimbursed by insurers or providers.

24.29.1406 FACILITY BILLS (1) Facility bills ~~should~~ must be submitted on a UB04 when the injured worker is discharged from the facility or every 30 days.

(2) through (5) remain the same.

AUTH: 39-71-203, MCA
IMP: 39-71-105, 39-71-107, 39-71-203, 39-71-704, MCA

REASON: There is reasonable necessity to require facility bills be submitted on this specific form so insurers know that it is a facility claim and not a professional claim, which facilitates the processing of the claim. The UB04 form is a universally used form for facility billing.

24.29.1432 FACILITY SERVICE RULES AND RATES FOR SERVICES PROVIDED ~~ON OR AFTER~~ FROM DECEMBER 1, 2008 THROUGH JUNE 30, 2013 (1) through (12) remain the same.

AUTH: 39-71-203, MCA
IMP: 39-71-203, 39-71-704, MCA

REASON: There is a reasonable necessity to end the time frame for this rule, due to the extent of rule changes necessitated by New Rule I.

24.29.1510 SELECTION OF PHYSICIAN FOR CLAIMS ARISING ~~ON OR AFTER~~ FROM JULY 1, 1993 THROUGH JUNE 30, 2013 (1) through (4) remain the same.

AUTH: 39-71-203, MCA
IMP: 39-71-704, MCA

REASON: There is a reasonable necessity to end the time frame for this rule, due to the extent of rule changes necessitated by New Rule II.

24.29.1513 DOCUMENTATION REQUIREMENTS (1) When a treating physician, emergency room or similar urgent care facility sees the claimant for the first time (related to the claim), the provider must furnish to the insurer the initial report, the Medical Status Form (MSF), and the treatment bill (CMS 1500) within seven business days of the visit. ~~Although the department has preprinted forms for the first report of treatment available, an insurer and provider may agree to use any other form or format for reporting the first treatment.~~

(2) As soon as possible, upon completion of the initial diagnostic process, the ~~provider~~ treating physician must prepare a treatment plan and promptly furnish a copy to the insurer. Subsequent changes ~~Changes~~ in the ~~overall~~ treatment plan

must be ~~noted~~ documented and a copy of the amended treatment plan must be promptly furnished to the insurer.

(3) To be eligible for payment for subsequent visits, the provider must furnish to the insurer:

(a) ~~documentation~~ the treatment bill (CMS 1500);

(b) remains the same.

(c) ~~office~~ applicable treatment notes with the bill ~~every 30 days~~.

(4)~~(a)~~ Certain treatment plans may require services be obtained from a vendor that is outside the tradition of being a professional health care provider. Under that circumstance, the treating physician has the obligation to include the ~~need~~ medical necessity for the service in the treatment plan and furnish functional improvement status as appropriate. The vendor, however, is responsible for furnishing documentation.

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

(5) remains the same.

(6) The treating physician ~~should~~ must report immediately to the insurer the date total disability ends or the date the injured worker is released to return to work.

AUTH: 39-71-203, MCA
IMP: 39-71-704, MCA

REASON: There is reasonable necessity to incorporate the statutorily required use of the Medical Status Form. There is reasonable necessity to require bills be submitted on the national CMS 1500 for standardizing billing practices and to clarify the billing problems that have occurred between facilities and professional fees. Reference was deleted to an out-of-date and out-of-use preprinted department form for first report of treatment. Sections (2), (3), and (4) update and clarify current documentation requirements.

24.29.1515 FUNCTIONAL IMPROVEMENT STATUS (1) ~~Improvement~~ Functional improvement status must identify objective medical findings of the claimant's medical status, and note the effect of the medical services (positive, neutral, or negative), with respect to the goals of the treatment plan. The functional improvement status can be sufficiently documented on the Medical Status Form. The Montana Utilization and Treatment Guidelines outline the standards for functional improvement.

(2) remains the same.

AUTH: 39-71-203, MCA
IMP: 39-71-704, MCA

REASON: The Montana Utilization and Treatment Guidelines (39-71-704(3), MCA) emphasize functional improvement as a standard for continuation of medical services. There is reasonable necessity for the proposed change in (1) to clarify the type of improvement and how it can be adequately documented.

24.29.1522 MEDICAL EQUIPMENT AND SUPPLIES PROVIDED BY A NONFACILITY FOR DATES OF SERVICE ~~ON OR AFTER~~ FROM JANUARY 1, 2008 THROUGH JUNE 30, 2013 (1) through (4) remain the same.

AUTH: 39-71-203, MCA
IMP: 39-71-704, MCA

REASON: There is a reasonable necessity to end the time frame for this rule, due to the extent of rule changes necessitated by New Rule III.

24.29.1533 NONFACILITY FEE SCHEDULE FOR SERVICES PROVIDED ~~ON OR AFTER~~ FROM JANUARY 1, 2008 THROUGH JUNE 30, 2013 (1) through (11) remain the same.

AUTH: 39-71-203, MCA
IMP: 39-71-704, MCA

REASON: There is a reasonable necessity to end the time frame for this rule, due to the extent of rule changes necessitated by New Rule IV.

24.29.1538 CONVERSION FACTORS FOR SERVICES PROVIDED ON OR AFTER JANUARY 1, 2008 – METHODOLOGY (1) remains the same.

(2) The conversion factors are established annually by the department pursuant to 39-71-704, MCA. If the department determines that a conversion factor does not need to change from the previous year due to its analysis of the average in (5), the most current factor listed below applies. The conversion factor for goods and services, other than anesthesia services:

(a) provided from January 1, 2008, to December 31, 2008, is $63.45; ~~and~~

(b) provided ~~on or after~~ from July 1, 2009, to June 30, 2013, is $65.28; and

(c) provided on or after July 1, 2013, is $60.52.

(3) The conversion factors are established annually by the department pursuant to 39-71-704, MCA. If the department determines that a conversion factor does not need to change from the previous year due to its analysis of the average in (5), the most current factor listed below applies. The conversion factor for anesthesia services:

(a) remains the same.

(b) provided from January 31, 2009, to December 31, 2009, is $61.98; ~~and~~

(c) provided ~~on or after~~ from January 1, 2010, to June 30, 2013, is $60.97; and

(d) provided on or after July 1, 2013, is $61.40.

(4) remains the same.

(5) The conversion factor amounts for ~~nonfacility~~ professional services are calculated using the average rates for medical services paid by up to the top five insurers or third-party administrators providing group health insurance via a group health plan in Montana, based upon the amount of premium for that category of insurance reported to the office of the Montana insurance commissioner. The term

"group health plan" has the same meaning as provided by 33-22-140, MCA. To be included in the conversion factor determination, the insurer or third-party administrator must occupy at least one percent of the market share for group health insurance policies as reported annually to the insurance commissioner.

(a) The department annually surveys up to the top five insurers to collect information on the rates (the RBRVS conversion factors) paid during the current year for ~~nonfacility~~ professional health care services furnished in Montana.

(b) remains the same.

AUTH: 39-71-203, MCA
IMP: 39-71-704, MCA

REASON: There is reasonable necessity to amend the rule to update the conversion factors, which have been frozen since December 31, 2010 at the direction of the 2011 Legislature. The department was directed to research and evaluate the medical fee schedules and establish new rates effective July 1, 2013. Section (5) has been amended to reflect the change in name from "nonfacility" to "professional."

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: Bill Wheeler, Department of Labor and Industry, P.O. Box 8011, Helena, MT 59604-8011; telephone (406) 444-6541; fax (406) 444-4140; or e-mail bwheeler@mt.gov, and must be received no later than 5:00 p.m., June 13, 2013.

7. Carolina Holien, Department of Labor and Industry, 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 of Chapter 167 was contacted by e-mail on March 8, 2013. The primary bill sponsor of Chapter 150 was contacted by e-mail on April 10, 2013.

/s/ Judy Bovington
Judy Bovington
Rule Reviewer

/s/ Pam Bucy
Pam Bucy
Commissioner
Department of Labor and Industry

Certified to the Secretary of State April 15, 2013.

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

In the matter of the amendment of ARM 24.156.603 applications for licensure	)))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On May 20, 2013, at 1:30 p.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rule.

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 May 13, 2013, to advise us of the nature of the accommodation that you need. Please contact Ian Marquand, 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 dlibsdmed@mt.gov.

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

24.156.603 APPLICATIONS-- ~~FOR~~ EXPEDITED LICENSURE (1) Application forms will be provided to an applicant in accordance with the requirement of 37-3-305, MCA, and all of the requirements set forth in 37-3-101 through 37-3-405, MCA. ~~In addition to the foregoing, the board may, in its discretion, require statements of good character and references from all areas where the applicant has previously practiced.~~

(2) ~~The~~ When an application contains information including, but not limited to, criminal matters, malpractice history, or irregularities in medical education or practice, the board may make an independent investigation ~~of any applicant~~ to determine whether the applicant has the qualifications necessary to be licensed, and whether the ~~applicant has previously been guilty of any offenses which would constitute~~ applicant's behavior constitutes unprofessional conduct under 37-1-316, MCA, or ARM 24.156.625. The board may require ~~the~~ such applicant to release any information or records pertinent to the board's investigation. The board shall require the applicant to furnish information from all states in which the applicant has previously been licensed. ~~The applicant must furnish references upon request by the board from each medical community in which the applicant has practiced.~~

(3) An applicant who has not engaged in the active clinical practice of medicine, excluding residency or fellowship training, for the two or more years preceding his or her application must~~, in addition to meeting all other~~ meet the

requirements ~~for licensure, pass the special purpose examination given by the Federation of State Medical Boards, or its successor~~ set forth in ARM 24.156.618.

(4) A board-certified physician who has been licensed for at least five years immediately preceding the application in at least one other state, the District of Columbia, a U.S. territory, or a Canadian province, and who has been in active clinical practice for all of those five years, and has no disciplinary or medical malpractice cases pending, settled, or adjudicated against the physician during the five years of practice immediately preceding the application, and no more than one malpractice claim, settlement, or judgment resulting in a payment exceeding $50,000 in the ten years immediately preceding the application, may apply for a license on an expedited basis.

(5) An applicant for a license on an expedited basis shall:

(a) submit a completed application on a form approved by the board;

(b) attest under oath on a form provided by the department that the information on the application is true and complete, and that falsification of any information is grounds for license denial or revocation;

(c) submit a signed release on a form provided by the department authorizing the release to the board of all information pertaining to the application;

(d) submit documentation of legal name change, if applicable;

(e) provide verification that the applicant has held an active, unrestricted license to practice medicine for at least five years immediately preceding the application;

(f) submit evidence of active clinical practice providing patient care for an average of 20 hours or more per week for the five years immediately preceding the application;

(g) provide verification of certification or recertification within the past ten years by an American Board of Medical Specialties (ABMS)- or an American Osteopathic Association (AOA)-approved specialty board, or be a Certificant of the College of Family Physicians of Canada (CCFP), a Fellow of the Royal College of Physicians (FRCP), or a Fellow of the Royal College of Surgeons (FRCS);

(h) pay to the board a nonrefundable fee of $325; and

(i) supply any additional information the board deems necessary to evaluate the applicant's qualifications.

(6) The board shall independently verify information from the American Medical Association (AMA) Physician Profile, or, if the applicant is an osteopathic physician, from the American Osteopathic Association (AOA) Physician Profile, the Federation of State Medical Boards (FSMB) and the National Practitioner Data Base (NPDB) in order to expedite licensing.

(7) A physician who has any of the following is not eligible to apply for a license on an expedited basis:

(a) professional liability insurance claims(s) or payments(s) in the five years immediately preceding the application or more than one such claim, settlement or judgment resulting in a payment exceeding $50,000 in the ten years immediately preceding the application;

(b) criminal convictions or pending criminal charges other than motor vehicle violations or misdemeanors resulting in a fine of more than $100;

(c) medical conditions which could affect the physician's ability to practice safely, including addiction to or intemperate use of addictive substances;

(d) regulatory board or licensing board complaints, investigations, or actions, including withdrawal of a license application;

(e) investigations or adverse actions, including denial, restriction, suspension, revocation, expulsion from or termination of hospital, clinic, or surgical center privileges, taken by a hospital, institutional staff, medical school, federal agency, or the U.S. military; or

(f) has graduated from a U.S. or Canadian medical school that is not Liaison Committee on Medical Education (LCME)-approved or Committee on Accreditation of Canadian Medical Schools (CACMS)-approved, or has graduated from a foreign medical school.

(8) An applicant who is found to be ineligible for licensing on an expedited basis will be informed by the board that the applicant is not eligible and the application will be processed on a nonexpedited basis.

AUTH: 37-1-131, 37-3-203, MCA
IMP: 37-1-131, 37-3-101, 37-3-202, 37-3-305, 37-3-306, 37-3-309, MCA

REASON: The board has determined that an expedited pathway to licensure should be established for routine physician license applicants with exemplary practice histories. The board is therefore amending this rule to allow such applicants to gain licensure and enter the medical workforce more quickly, while ensuring the public safety through the necessary qualifications. The proposed amendments come as the result of discussions among the board, professional associations, and the legislature, although they are not in response to specific legislation.

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

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of 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., May 28, 2013.

5. An electronic copy of this Notice of Public Hearing is available through the department and board's web site 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.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies 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 dlibsdmed@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

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

BOARD OF MEDICAL EXAMINERS
KRISTIN SPANJIAN, MD, PRESIDENT

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

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

Certified to the Secretary of State April 15, 2013

BEFORE THE BOARD OF REAL ESTATE APPRAISERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the adoption of NEW RULE I AMC Audit Rules	))	NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION

TO: All Concerned Persons

1. On May 16, 2013, at 1:00 p.m., a public hearing will be held in room 471, 301 South Park Avenue, Helena, Montana, to consider the proposed adoption of the above-stated rule.

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 Real Estate Appraisers (board) no later than 5:00 p.m., on May 9, 2013, to advise us of the nature of the accommodation that you need. Please contact Billie Veerkamp, Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2381; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdrea@mt.gov.

3. The proposed new rule provides as follows:

NEW RULE I AMC AUDIT REQUIREMENTS (1) Upon request of the board or board's representative, each appraisal management company selected for audit must provide the following information to the board office in the form required by the board:

(a) company written policy for quality control examinations and reviews;

(b) company written policy for determining the good standing of each appraiser panel member;

(c) company written policy identifying how geographic competency is determined for each appraiser panel member;

(d) the following information regarding reconsiderations of value:

(i) company written policy to request a reconsideration of value;

(ii) number of reconsiderations of value that were requested in the 12 months preceding renewal;

(iii) name of any person who provided additional sales for reconsideration;

(iv) sources of the sales data provided for every additional sale given to the appraiser to analyze; and

(v) written notification to the appraiser regarding the justification for the reconsideration; and

(e) the following information regarding the removal of an appraiser from the company's appraiser panel:

(i) number of appraisers removed from the panel in the 12 months preceding renewal;

(ii) reasons for each removal; and

(iii) a copy of the written removal notification provided to each appraiser.

(2) In addition to the information specified in (1), for each member of the appraiser panel, an appraisal management company selected for audit must provide upon request of the board or board's representative:

(a) name of each appraiser on the appraiser panel;

(b) number of engagements performed; and

(c) any appraisal review performed for USPAP compliance for each panel member, including:

(i) address of property appraised;

(ii) date assigned and date completed;

(iii) name and license number of appraiser who performed the review;

(iv) appraisal report and corresponding appraisal review completed for USPAP compliance in the previous renewal year;

(v) documentation of any alteration of the appraisal report;

(vi) listing of any additional sales data provided to the appraiser;

(vii) name and contact information of the person who selected the additional sales data for the appraiser to respond to or analyze; and

(viii) amount of fees and date paid to the appraiser.

(3) Prior to commencing audits, the board shall annually, by motion, identify the information to be collected from each audited appraisal management company under (1) and (2). The board or board's representative may elect to request only a portion or percentage of the appraisal management company's records. The board is not required to collect and review all of the records that could be made available to the board pursuant to this rule, in order to discharge its auditing duties under 37-54-512, MCA.

(4) Discrepancies in the documentation will result in further audit.

(5) Each appraisal management company shall pay an audit fee in accordance with ARM 24.207.401(2)(k). Any audit costs above the fee in ARM 24.207.401(2)(k) will be billed directly to the appraisal management company.

(6) For purposes of this rule, a reconsideration of value means any suggestion, request, or demand by the appraisal management company, whether it was originated by the appraisal management company or another source, that the appraiser reconsider a value opinion or consider an alternative value for an appraisal submitted to the appraisal management company. Any such request or a similar request is considered a reconsideration of value, regardless of the nomenclature used by the appraisal management company in making the request.

AUTH: 37-54-105, MCA
IMP: 37-54-512, 37-54-513, MCA

REASON: Section 37-54-512, MCA, provides that no less than ten percent of the appraisal management companies in this state are subject to an annual random audit at renewal. The board determined it is reasonably necessary to adopt this new rule and further implement the statutory audit requirements by specifically delineating the types of information that could be requested by the board in an appraisal management company audit.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdrea@mt.gov, and must be received no later than 5:00 p.m., May 24, 2013.

5. An electronic copy of this Notice of Public Hearing is available through the department and board's web site at www.realestateappraiser.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.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies 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 Real Estate Appraisers, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdrea@mt.gov; or made by completing a request form at any rules hearing held by the agency.

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

8. Don Harris, attorney, has been designated to preside over and conduct this hearing.

BOARD OF REAL ESTATE APPRAISERS
THOMAS G. STEVENS, CERTIFIED
GENERAL APPRAISER, CHAIRPERSON

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

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

Certified to the Secretary of State April 15, 2013

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

In the matter of the amendment of ARM 37.87.1202, 37.87.1210, 37.87.1214, 37.87.1217, and 37.87.1223 and the repeal of ARM 37.87.1222, pertaining to psychiatric residential treatment facility (PRTF) services	)))))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT AND REPEAL

TO: All Concerned Persons

1. On May 16, 2013, at 11:00 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, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Public Health and Human Services no later than 5:00 p.m. on May 9, 2013, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.87.1202 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY SERVICES, DEFINITIONS As used in this subchapter, the following definitions apply:

~~(1) "Care coordination" means monitoring and referral services provided to youth in a PRTF by an outside provider to assist in discharging the youth from the PRTF to create a smooth transition in which to transfer the clinical gains the youth has made in the PRTF to the community. Care coordination may be provided by a licensed or in-training mental health professional, or targeted case manager who has extensive knowledge of community services. In-training mental health professional services are only reimbursed when provided by a licensed mental health center. Care coordination includes the following:~~

~~(a) monitoring, which means attending telephonically the youth's monthly PRTF treatment team meetings and consultation with the team about:~~

~~(i) the youth's treatment goals and progress in treatment;~~

~~(ii) the youth's readiness for discharge and promoting discharge at the earliest opportunity;~~

~~(iii) the youth's discharge plan and specific service needs; and~~

~~(iv) advocating for the parent or legal guardian's recommendations about treatment and discharge.~~

~~(b) referral services, which means:~~

~~(i) making appointments for needed psychiatric, medical, educational, psychological, social, behavioral, developmental, and chemical dependency treatment services, as appropriate upon discharge from the PRTF; and~~

~~(ii) ensuring communication exists and pertinent clinical information is shared between the youth's PRTF treatment team and community providers prior to discharge.~~

(2) through (5) remain the same but are renumbered (1) through (4).

(5) "Montana i-home services" means home and community services as described in ARM 37.87.1313, 37.87.1314, and 37.87.1315.

(6) remains the same.

(7) "Psychiatric residential treatment facility (PRTF)" means a facility other than a hospital that provides psychiatric services only to ~~individuals~~ persons under age 21. The PRTF must be certified for Medicaid participation by:

(a) and (b) remain the same.

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

37.87.1210 OUT-OF-STATE PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY (PRTF) SERVICE REQUIREMENTS (1) Payment for psychiatric residential treatment facility (PRTF) services provided outside the state of Montana will be made only under the conditions specified in this rule and subchapter. The Montana Medicaid program will not make payment for PRTF services provided by out-of-state facilities unless the department or its designee determines that PRTF, and ~~applicable PRTF waiver services~~ Montana i-home services in the state of Montana are unavailable. ~~PRTF waiver sites are identified in ARM 37.87.1303.~~

(2) PRTF and ~~PRTF waiver~~ Montana i-home services in the state of Montana will be determined unavailable when:

(a) the youth has been officially screened for admission by all enrolled in-state PRTFs, and an applicable ~~PRTF waiver~~ Montana i-home site, and denied admission because the PRTFs or ~~PRTF waiver~~ Montana i-home site cannot meet the ~~youth's~~ treatment needs of the youth; or

(b) the youth has been officially screened for admission by all enrolled in-state PRTFs, and an applicable ~~PRTF waiver~~ Montana i-home site, and denied admission for one of the following reasons:

(i) a bed or opening is not available in a PRTF or ~~PRTF waiver~~ Montana i-home site; or

(ii) the ~~youth's~~ parent or legal ~~guardian~~ representative of the youth refuses ~~PRTF waiver~~ Montana i-home services; or

(iii) the ~~youth's~~ psychiatric condition of the youth prevents the youth from being temporarily and safely placed in another setting while awaiting admission to an in-state PRTF or ~~PRTF waiver~~ Montana i-home site.

(3) The department or its designee will not commence a preadmission review for or certify an admission to an out-of-state PRTF until receiving from the prospective PRTF written verification that the youth cannot be served within the state of Montana.

(a) Written verification must be provided on a form approved by the department or its designee, and must be completed and signed on behalf of the in-state PRTFs and an applicable ~~PRTF waiver~~ Montana i-home site indicating that the requirements of (2)(a) or (2)(b) are met.

(b) In-state PRTFs and a ~~PRTF waiver~~ Montana i-home site that do not complete, sign, and return the form by fax to the prospective out-of-state PRTF within three days after receipt will be deemed to be unable to serve the youth.

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

37.87.1214 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY SERVICES, ~~CHEMICAL DEPENDENCY~~ SUBSTANCE USE DISORDER SCREENING, ASSESSMENT AND TREATMENT (1) PRTF services may include ~~chemical dependency (CD)~~ substance use disorder screening, assessment and treatment. If a substance use disorder screening is completed, the GAIN-SS screening tool must be used. Substance use disorder assessment and treatment must be completed in accordance with ~~according to~~ the American Society of Addictions Medicine PPC-2R Manual (Second Edition, revised April 2001) for youth with a primary SED diagnosis who have a co-occurring ~~CD~~ substance use disorder diagnosis.

(2) remains the same.

(3) ~~CD~~ Substance use disorder treatment includes the following services based on the individual plan of care developed with the youth:

(a) through (4) remain the same.

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

37.87.1217 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY (PRTF) SERVICES, TREATMENT REQUIREMENTS (1) PRTF services must include active treatment designed to achieve the ~~youth's~~ discharge of the youth to a less restrictive level of care at the earliest possible time. Active treatment includes, but is not limited to, the following services provided regularly and as clinically indicated:

(a) through (3) remain the same.

(4) The PRTF must use a Montana children and adolescent needs and strengths (MT-CANS) functional assessment ~~approved by the department's children's mental health bureau~~ for youth on admission and prior to discharge to assist in the development of the plan of care and the discharge plan.

(5) The PRTF plan of care must be comprehensive and address all psychiatric, medical, educational, psychological, social, behavioral, developmental, and ~~chemical dependency~~ substance use disorder treatment needs.

(6) The ~~youth's~~ plan of care and discharge plan for the youth must be reviewed at least every 30 days at the multidisciplinary treatment team meeting, and more frequently if there is a significant change in the ~~youth's~~ condition of the youth. Department staff, their designee, or both, and the ~~The youth's~~ parent or legal ~~guardian~~ representative of the youth must be invited to participate in these meetings, and given adequate notice to participate. Adequate notice means generally a week unless the ~~youth's~~ condition of the youth dictates otherwise. At a minimum the following must be discussed:

(a) through (c) remain the same.

(d) ~~youth's~~ treatment goals of the youth, progress or lack of progress, and revisions to the treatment plan;

(e) remains the same.

(f) co-occurring issues that impact ~~youth's~~ treatment of the youth, such as developmental or cognitive delays, ~~chemical dependency~~ substance use disorder, and sexual reactivity or offending;

(g) remains the same.

(h) ~~youth's~~ readiness for discharge of the youth, specific services needed on discharge, and who will be making the appointments for discharge services.

(7) remains the same.

(8) In addition to the other requirements in ~~(4)~~ this rule that pertain to discharge planning the following activities are required. The PRTF must:

(a) remains the same.

~~(b) decide whether or not to contract with a care coordinator to assist in discharge planning;~~

~~(c)~~ (b) develop a discharge plan ~~with the care coordinator, if assistance is needed,~~ within 30 days of admission that identifies the youth and family's needed services and supports upon discharge:

(i) remains the same.

(d) remains the same but is renumbered (c).

~~(e)~~ (d) work with the ~~youth's~~ parent or legal ~~guardian~~ representative of the youth, independently or with a ~~care coordinator~~ targeted case manager for out-of-state PRTFs, in making agreed upon discharge plans and referrals for needed services. The limits for targeted case management services are in ARM 37.87.1223.

(9) remains the same.

(10) As part of the discharge planning requirements, PRTFs ~~shall~~ must ensure the youth has a seven-day supply of needed medication and a written prescription for medication to last through the first outpatient visit in the community with a prescribing provider. Prior to discharge, the PRTF must identify a prescribing provider in the community and schedule an outpatient visit. Documentation of the medication plan and arrangements for the outpatient visit must be included in the ~~youth's~~ medical record for the youth. If medication has been used during the ~~youth's~~ PRTF treatment of the youth but is not needed upon discharge, the reason the medication is being discontinued must be documented in the ~~youth's~~ medical record for the youth.

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

37.87.1223 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY (PRTF) SERVICES, REIMBURSEMENT (1) For ~~PRTF services provided on or after September 1, 2010~~ inpatient psychiatric services provided in a PRTF on or after July 1, 2013, for youth as defined in ARM 37.87.102, the Montana Medicaid ~~p~~Program will pay a ~~provider~~ PRTF for each patient day as provided in these rules.

(a) remains the same.

(2) For ~~inpatient psychiatric services provided by a PRTF in the state of Montana~~ in-state PRTFs, the Montana Medicaid Program will pay a provider, for each Medicaid patient day, a bundled per diem ~~interim~~ rate as specified in (3), less any third party or other payments. Services included in ~~T~~the ~~interim~~ bundled per diem rate ~~is~~ are defined in ~~ARM 37.87.1222~~ (5).

(3) The ~~statewide~~ bundled per diem ~~interim~~ rate for in-state PRTF services is the lesser of:

(a) the amount specified in the department's Medicaid Youth Mental Health fee schedule, as adopted in ARM ~~37.87.901~~ 37.87.105(6); or

(b) remains the same.

(4) Out-of-state PRTFs ~~providers~~ will be reimbursed 50% of their usual and customary charges. Services that must be included in the out-of-state PRTF's usual and customary rate are outlined in (7). ~~Reimbursement will include all Medicaid covered psychiatric, medical, and ancillary services provided by the PRTF or by outside providers consistent with ARM 37.87.1222. Services provided by an outside provider while the youth is a patient in a PRTF are not separately reimbursable by the Montana Medicaid program.~~

(5) The in-state PRTF bundled per diem rate is composed of:

(a) a direct care wage add-on through a contract with the department or in the bundled per diem rate, as applicable;

(b) services, therapies, and items related to treating the psychiatric condition of the youth;

(c) services provided by licensed psychologists, licensed clinical social workers, and licensed professional counselors;

(d) psychological testing;

(e) lab and pharmacy services related to treating the psychiatric condition of the youth; and

(f) supportive services necessary for daily living and safety.

(6) The in-state PRTF bundled per diem rate does not include the following services, which are separately reimbursable by the Medicaid program for enrolled providers:

(a) licensed physician, psychiatrist, and mid-level practitioner services;

(b) non-psychotropic medication and related lab services;

(c) adult mental health center evaluations for transition age youth 17 to 18, to determine whether or not they qualify for adult mental health services and have a severe and disabling mental illness; and

(d) Medicaid state plan ancillary services, except targeted case management provided by the PRTF or by outside providers, under the following conditions:

(i) they are in the plan of care for the youth;

(ii) they are provided under the direction of the PRTF physician;

(iii) they are provided under an arrangement with other qualified providers; and

(iv) the medical records for these services are maintained by the PRTF.

(7) The out-of-state PRTF's bundled per diem rate includes:

(a) all services, therapies, and items related to treating the condition of the youth;

(b) licensed physician, psychiatrist, and mid-level practitioner, psychologist, clinical social worker, and professional counselor services;

(c) psychological testing;

(d) lab and pharmacy services; and

(e) supportive services necessary for daily living and safety.

(8) The out-of-state PRTF's bundled per diem rate does not include the following services, which are separately reimbursable by the Medicaid program for enrolled providers:

(a) adult mental health center evaluations for transition age youth 17 to 18, to determine whether or not they qualify for adult mental health services and have a severe and disabling mental illness;

(b) targeted case management services as defined in ARM 37.87.802 and 37.88.906, per the limits in (9); and

(c) Medicaid state plan ancillary services provided by the PRTF or by outside providers, under the following conditions:

(i) they are in the plan of care for the youth;

(ii) they are provided under the direction of the PRTF physician;

(iii) they are provided under an arrangement with other qualified providers; and

(iv) the medical records for these services are maintained by the PRTF.

(9) If targeted case management services are provided for youth in an out-of-state PRTF the following limits apply:

(a) up to 80 units per PRTF stay;

(b) in accordance with 42 CFR 440.169(c); and

(c) adult targeted case management for youth 17 to 18 years old.

(10) Reimbursement will be made to in-state and out-of-state PRTF providers for reserving a bed while the youth is temporarily absent for a therapeutic home visit if:

(a) the plan of care for the youth documents the medical need for therapeutic home visits as part of a therapeutic plan to transition the youth to a less restrictive level of care;

(b) the provider clearly documents staff contact and youth achievements or regressions during and following the therapeutic home visit;

(c) the youth is absent from the provider's facility for no more than three patient days per therapeutic home visit, unless additional days are authorized by the department; and

(d) the out-of-state PRTF pays for transportation for youth on a therapeutic home visit from an out-of-state PRTF.

(11) No more than 14 patient days per youth in each state fiscal year will be reimbursed for therapeutic home visits.

(12) Providers must bill for PRTF services using the revenue codes designated by the department.

(13) Notice of the admission and discharge dates for the youth must be submitted to the department or its designee the day of admission or discharge. A $500 fine may be imposed against the facility for each instance where the department does not receive timely notification.

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

4. The department proposes to repeal the following rule:

37.87.1222 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY (PRTF) SERVICES, INTERIM RATE AND COST SETTLEMENT PROCESS, is found on page 37-21379 of the Administrative Rules of Montana.

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

5. STATEMENT OF REASONABLE NECESSITY

On November 28, 2012 the Centers for Medicare and Medicaid issued an informational bulletin announcing it would allow states the flexibility to ensure youth receiving inpatient psychiatric services would receive medically necessary Medicaid services to meet their medical, psychological, social, behavioral, and developmental needs as identified in their plan of care. Based upon this directive, the department is proposing changes to the psychiatric residential treatment facility (PRTF) administrative rules regarding how the ancillary services youth receive in a PRTF are reimbursed and regarding the services included in the bundled per diem rate. The proposed amendments and repeal are necessary to implement the changes in federal policy. The department believes the changes will benefit Montana providers and youth.

ARM 37.87.1202

The department is proposing to remove the definition of care coordination. Care coordination by a licensed or in-training mental health professional was an allowable ancillary service when PRTFs reimbursed ancillary services, and was not used. The department is proposing to allow reimbursement for ancillary services provided for youth in a PRTF by the Medicaid program and not the PRTF. The department is also proposing a definition of "Montana i-home" in accordance with the proposed amendment to ARM 37.87.1210. A limited amount of targeted case management is being proposed for youth in out-of-state PRTFs.

ARM 37.87.1210

The department is proposing to change the "PRTF waiver" denial requirement in ARM 37.87.1210 to a "Montana i-home" denial requirement before youth may be served in an out-of-state PRTF. This is necessary because Montana i-home services are intensive in-home services intended to serve the youth with a serious emotional disturbance in their home and community, which is preferable to sending youth out-of-state for treatment.

ARM 37.87.1214

The department is proposing to add the Global Appraisal of Individual Needs-Short Screener (GAIN-SS) substance abuse (SA) screening tool to ARM 37.87.1214 as an optional screening service. SA assessment and treatment services provided by PRTFs were allowable when the PRTFs reimbursed ancillary services directly; however, CD assessment and treatment in a PRTF are now optional services because the Children's Mental Health Bureau does not reimburse for SA services.

ARM 37.87.1217

The department is proposing to require use of the Montana children and adolescent needs and strengths (MT CANS) tool as the functional assessment tool for PRTF services. The department is also proposing the requirement in ARM 37.87.1217 that in- and out-of-state PRTFs invite department staff or their designees to monthly treatment team meetings. The Children's Mental Health Bureau already requires their designee, the utilization review contractor's regional care coordinators, to attend monthly PRTF treatment team meetings. This proposed amendment is necessary because some PRTFs have not been doing this, which impacts the quality of active treatment and discharge planning a youth receives in a PRTF.

ARM 37.87.1222

The department is proposing to repeal ARM 37.87.1222 to remove a reference to the interim rate and payments and the cost settlement language. The language regarding how ancillary services are reimbursed would be located in ARM 37.87.1223. This is necessary because the department is also proposing in ARM 37.87.1223, that all state plan Medicaid ancillary services be reimbursed by the Montana Medicaid Program and not the PRTFs.

ARM 37.87.1223

The department is proposing new language in ARM 37.87.1223 regarding how ancillary services are to be reimbursed. This is necessary in order to have the reimbursement requirements in the same rule as PRTF reimbursement. The department is proposing that all state plan Medicaid ancillary services be reimbursed by the Montana Medicaid Program and not the PRTF, as the rules currently provide.

Targeted case management will not be a covered ancillary service for youth in an in-state PRTF.

The department is proposing language to clarify what services are included in the in- and out-of-state PRTF bundled per diem rates. Limited youth and adult targeted case management (TCM) services are being added as a covered ancillary service for youth in an out-of-state PRTF. Adult TCM is limited for youth 17 to 18 years of age who have been determined to have a severe and disabling mental illness (SDMI). This is necessary because out-of-state PRTFs have significant problems discharging some youth from their facility; TCMs will assist out-of-state PRTFs with appropriate discharge plans.

The department is proposing clinical assessments completed by a mental health center serving adults as a covered ancillary service. This is necessary in order to determine whether a youth 17 to 18 years of age in a PRTF has a SDMI and, if so, to help make transition to adult Medicaid services easier. The department finds that transitioning to adult mental health services is difficult; knowing what services the youth will qualify for will assist in the transition. Some serious emotional disturbance (SED) covered diagnoses are also SDMI covered diagnoses, however, many are not. The department is proposing to move the PRTF therapeutic home visit reimbursement requirements from ARM 37.87.1222. This is necessary because ARM 37.87.1222 would be repealed.

The department is proposing to move the fine from ARM 37.87.1222 and increase it to $500.00 for PRTFs who do not correct admission dates that do not match the first day of the PRTF prior authorization. This fine also applies to providers who do not discharge the youth per the department's instruction in the UR contractor's system, on the day of discharge. This proposed amendment is necessary because the current fine of $100 has not been a sufficient enough deterrent.

Fiscal impact

The unique caseload count for PRTF services as of March 1, 2013 for SFY 2013 is 255. For SFY 2011 it was 463. There are 3 in-state and 11 out-of-state PRTFs enrolled in the Montana Medicaid Program. All would be affected by the proposed amendments.

6. The department intends the proposed rule changes to be applied effective July 1, 2013.

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: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., May 23, 2013.

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
John Koch
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State April 15, 2013.

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

In the matter of the amendment of ARM 37.34.901 and the repeal of ARM 37.34.902, 37.34.906, 37.34.907, 37.34.911, 37.34.912, 37.34.913, 37.34.917, 37.34.918, 37.34.919, 37.34.925, 37.34.926, 37.34.929, 37.34.930, 37.34.933, 37.34.934, 37.34.937, 37.34.938, 37.34.941, 37.34.942, 37.34.946, 37.34.947, 37.34.950, 37.34.951, 37.34.954, 37.34.955, 37.34.956, 37.34.957, 37.34.960, 37.34.961, 37.34.962, 37.34.963, 37.34.967, 37.34.968, 37.34.971, 37.34.972, 37.34.973, 37.34.974, 37.34.978, 37.34.979, 37.34.980, 37.34.981, 37.34.985, 37.34.986, 37.34.987, and 37.34.988 pertaining to Medicaid home and community-based service program for individuals with developmental disabilities	)	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT AND REPEAL

TO: All Concerned Persons

1. On May 16, 2013, at 10:00 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, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Public Health and Human Services no later than 5:00 p.m. on May 9, 2013, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.34.901 MEDICAID HOME AND COMMUNITY-BASED SERVICES WAIVER PROGRAM: AUTHORITY (1) The department has been granted by the United States department of health and human services (HHS) the authority, through 42 USC 1396n(c) and 42 CFR 441.300 through 441.310, to provide Medicaid home and community-based services (HCBS) to persons with developmental disabilities. ~~The authority to implement this program is provided in 42 USC 1396n(c) and 42 CFR 441.300 through 441.310.~~ These rules implement in Montana the Medicaid home and community-based services waiver program for persons with developmental disabilities.

(2) In accordance with the state and federal statutes and rules generally governing the provision of Medicaid-funded home and community-based services and the federal-state agreement 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) the types of services to be available;

(b) the amount, scope, and duration of the services;

(c) the target population;

(d) individual eligibility; and

(e) delivery approach.

(3) The 1915(c) Home and Community-Based Waiver Services for Individuals with Developmental Disabilities waiver program must be delivered in accordance with the requirements and limitations of the 1915(c) Home and Community-Based Services for Individuals with Developmental Disabilities Manual for the 0208 Waiver Program, dated July 1, 2013.

(4) The department adopts and incorporates by this reference the 1915(c) Home and Community-Based Services for Individuals with Developmental Disabilities Manual for the 0208 Waiver Program, dated July 1, 2013. A copy of the 1915(c) Home and Community-Based Services for Individuals with Developmental Disabilities Manual for the 0208 Waiver Program, may be obtained through the Department of Public Health and Human Services, Developmental Services Division, Developmental Disabilities Program, 111 N. Sanders, P. O. Box 4210, Helena, MT 59604 and at http://www.dphhs.mt.gov/dsd/ddp/medicaidwaivers.shtml.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

4. The department proposes to repeal the following rules:

37.34.902 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: GENERALLY, found on page 37-7393 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.906 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: ELIGIBILITY, found on page 37-7397 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.907 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: INTENSIVE SERVICES REVIEW COMMITTEE, found on page 37-7398 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.911 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: AVAILABLE SERVICES, found on page 37-7401 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.912 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: GENERAL PROVIDER REQUIREMENTS, found on page 37-7402 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.913 0208 COMPREHENSIVE PROGRAM OF MEDICAID HOME AND COMMUNITY SERVICES: REIMBURSEMENT, found on page 37-7403 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.917 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: INDIVIDUAL PLANS OF CARE, found on page 37-7409 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.918 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: INFORMING BENEFICIARY OF CHOICE, found on page 37-7409 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.919 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: NOTICE AND FAIR HEARING, found in page 37-7410 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.925 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: INTENSIVE SUPPORT COORDINATION SERVICES, DEFINITION, found on page 37-7413 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.926 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: INTENSIVE SUPPORT COORDINATION SERVICES, REQUIREMENTS, found on page 37-7414 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.929 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: HOMEMAKER SERVICES, DEFINITIONS, found on page 37-7417 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.930 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: HOMEMAKER SERVICES, REQUIREMENTS, found on page 37-7417 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.933 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: PERSONAL CARE SERVICES, DEFINITIONS, found on page 37-7419 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.934 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: PERSONAL CARE SERVICES, REQUIREMENTS, found on page 37-7419 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.937 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: ADULT DAY SERVICES, DEFINITIONS, found on page 37-7421 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.938 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: ADULT DAY SERVICES, REQUIREMENTS, found on page 37-7421 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.941 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: HABILITATION SERVICES, DEFINITION, found on page 37-7423 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.942 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: HABILITATION SERVICES, REQUIREMENTS, found on page 37-7424 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.946 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: RESPITE CARE, DEFINITION, found on page 37-7427 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.947 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: RESPITE CARE, REQUIREMENTS, found on page 37-7427 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.950 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: OCCUPATIONAL THERAPY SERVICES, DEFINITION, found on page 7431 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.951 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: OCCUPATIONAL THERAPY SERVICES, REQUIREMENTS, found on page 37-7431 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.954 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: PHYSICAL THERAPY SERVICES, DEFINITION, found on page 37-7433 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.955 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: PHYSICAL THERAPY SERVICES, REQUIREMENTS, found on page 37-7433 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.956 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: SPEECH THERAPY SERVICES, DEFINITION, found on page 37-7434 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.957 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: SPEECH THERAPY SERVICES, REQUIREMENTS, found on page 37-7434 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.960 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: ENVIRONMENTAL MODIFICATIONS, DEFINITIONS, found on page 37-7437 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA

IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.961 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: ENVIRONMENTAL MODIFICATIONS, REQUIREMENTS, found on page 37-7437 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.962 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: ADAPTIVE EQUIPMENT, DEFINITIONS, found on page 37-7438 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.963 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: ADAPTIVE EQUIPMENT, REQUIREMENTS, found on page 37-7438 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.967 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: TRANSPORTATION AND ESCORT SERVICES, DEFINITION, found on page 37-7441 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.968 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: TRANSPORTATION AND ESCORT SERVICES, REQUIREMENTS, found on page 37-7441 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.971 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: PSYCHOLOGICAL AND PROFESSIONAL COUNSELING SERVICES, DEFINITION, found on page 37-7443 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.972 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: PSYCHOLOGICAL AND PROFESSIONAL COUNSELING SERVICES, REQUIREMENTS, found on page 37-7443 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.973 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: NURSING SERVICES, DEFINITION, found on page 37-7444 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.974 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: NURSING SERVICES, REQUIREMENTS, found on page 37-7444 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.978 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: DIETITIAN SERVICES, DEFINITION, found on page 37-7449 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.979 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: DIETITIAN SERVICES, REQUIREMENTS, found on page 37-7449 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, 53-20-205, MCA

37.34.980 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: MEAL SERVICES, DEFINITIONS, found on page 37-7449 of the Administrative Rules of Montana.

AUTH: 53-6-402, 53-20-204, MCA
IMP: 53-6-402, 53-20-205, MCA

37.34.981 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: MEAL SERVICES, REQUIREMENTS, found on page 37-7449 of the Administrative Rules of Montana.

AUTH: 53-6-402, 53-20-204, MCA
IMP: 53-6-402, 53-20-205, MCA

37.34.985 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: SUPPORTED LIVING COORDINATION, DEFINITION, found on page 37-7451 of the Administrative Rules of Montana.

AUTH: 53-6-402, 53-20-204, MCA
IMP: 53-6-402, 53-20-205, MCA

37.34.986 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: SUPPORTED LIVING COORDINATION, REQUIREMENTS, found on page 37-7451 of the Administrative Rules of Montana.

AUTH: 53-6-402, 53-20-204, MCA
IMP: 53-6-402, 53-20-205, MCA

37.34.987 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: RESPIRATORY SERVICES, DEFINITION, found on page 37-7452 of the Administrative Rules of Montana.

AUTH: 53-6-402, 53-20-204, MCA
IMP: 53-6-402, 53-20-205, MCA

37.34.988 MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: RESPIRATORY SERVICES, REQUIREMENTS, found on page 37-7452 of the Administrative Rules of Montana.

AUTH: 53-6-402, 53-20-204, MCA
IMP: 53-6-402, 53-20-205, MCA

5. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.34.901, Medicaid home and community-based services (HCBS) waiver program for individuals with developmental disabilities (0208 waiver) and to repeal ARM 37.34.902 through 37.34.988. The proposed rule amendment and repeal are necessary to conform state authority for administration of the 0208 Home and Community Program with the current agreement with the federal Centers for Medicare and Medicaid Services (CMS) that govern the state's program; to place the various details for the management of the program into a comprehensive manual for ease of access and understanding by the public; and to initiate certain new services and changes in existing services.

The current HCBS 0208 waiver expires on June 30, 2013. In order to continue to provide services to persons with a developmental disability, the Department of Public Health and Human Services, Developmental Services Division, Developmental Disabilities Program (DDP) has submitted a 1915(c) HCBS waiver renewal application to the Centers for Medicare and Medicaid Services. The purpose of this program is to provide an array of home and community-based

services that assist persons with a developmental disability to live in the community and avoid institutionalization. The department has broad discretion in the design of the waiver program to address the needs of the waiver target population through the development of a range of services that are necessary and appropriate for meeting those needs. The proposed amendments to Administrative Rules of Montana, ARM Title 37, chapter 34, subchapter 9, are specific for administering the 1915(c) HCBS waiver services.

ARM 37.34.901

ARM 37.34.901 outlines the federal authority through Section 1915(c) of the Social Security Act, providing states the option to renew their Medicaid waiver to offer Home and Community-based Services (HCBS). In addition, the proposed rule establishes the discretion of the department to manage the various aspects of the program in conformance with federal authority and as otherwise determined appropriate by the department. This application of discretion to the program is necessary to assure continuing conformance with the governing federal authority so as to avoid withdrawal of federal approval for the program and to avoid federal recoupment for inappropriate expenditures of federal monies.

This proposed rule adopts and incorporates by reference, the 1915(c) Home and Community-Based Services (0208) Waiver Program for Individuals with Developmental Disabilities Manual for the 0208 Waiver Program, dated July 1, 2013. This is necessary because the 1915(c) HCBS 0208 waiver program manual defines the population eligible to be served; screening and placement criteria and procedures; the provision of services available under the program; plans of care management processes and responsibilities; provider requirements; and provider reimbursement.

ARM 37.34.902 through ARM 37.34.988

The department is proposing to repeal ARM 37.34.902 through 37.34.988. This is necessary because of the proposed amendment in ARM 37.34.901, which adopts and incorporates the 1915(c) Home and Community-Based Services for Individuals with Developmental Disabilities Manual for the 0208 Waiver Program, dated July 1, 2013 (manual). The information currently contained in ARM 37.34.902 through ARM 37.34.988 is incorporated into the manual.

Manual

The department is proposing adoption and incorporation into rule the 1915(c) Home and Community-Based Services for Individuals with Developmental Disabilities Manual for the 0208 Waiver Program, dated July 1, 2013 (manual) to administer the 1915(c) HCBS waiver program (0208 comprehensive waiver). Eligibility, screening and placement, transitioning, service definitions, general provider requirements, plan of care, notice and fair hearings, and freedom of choice that were previously in ARM

37.34.902 through 37.34.988, are included in the new proposed manual and have not been substantively changed.

The key changes for the waiver program renewal which are reflected in the manual are as follows:

(1) Merge the community supports waiver (0371) into the 0208 waiver effective July 1, 2013. Persons currently receiving services in the 0371 waiver will transition into the 0208 waiver with equivalent services. Merging these two waivers allows the department to pool resources and provides for a more streamlined management. All of the services currently available in the 0371 waiver are also available in the 0208 waiver, therefore persons receiving services will not be directly affected by this merger.

(2) The addition of new services definitions including individual employment support, follow along support, small group employment support, and co-worker support. The expected outcome for these services is integrated competitive employment for people with developmental disabilities. The purpose of these added services is to promote progressive change to enable persons with developmental disability opportunity to advance economically and participate as productive members of society. The expected outcome for these services is integrated competitive employment for people with developmental disabilities.

(3) Remove current definitions for day habilitation, supported employment, and respiratory therapy. In the waiver renewal, day habilitation is being unbundled and will be replaced with adult day health, day supports and activities, and job discovery/job preparation. This allows more accurate billing. Services under supported employment are being divided into individual employment support, follow along support, small group employment support, and co-worker support in order to provide more options for persons with disabilities to seek competitive employment. Respiratory therapy is being removed as a program service due to underutilization.

(4) Remove family support specialist (FSS) certification as a qualified provider requirement of waiver-funded children's case management. The provider must have education and experience equal to a FSS. Removing the certification requirement is necessary as it allows for a more open qualified provider enrollment process.

(5) Remove the requirement that a provider's board of directors must approve purchases over $4000 for environmental modifications/adaptive equipment because not all providers have a board of directors.

(6) The department is also requesting to add service definitions for remote monitoring equipment and remote monitoring. The addition of remote monitoring services follows a national movement towards providing persons safety oversight services in a less intrusive, more cost effective manner.

(7) Change "board certified behavior analyst" to "behavioral support services" and add it as a service option for facilities such as licensed adult foster homes, developmental disabilities licensed group homes, assisted living, and transitional living apartments. This change is due to recent changes in ARM 37.34.1422, which allows for other professionals to also approve positive behavior support plans.

Fiscal Impact

There are no changes in the number of persons to be served through merging the community supports waiver (0371) into the 0208 waiver and the expenditures on services are expected to remain unchanged. Therefore, there is no fiscal impact expected.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., May 23, 2013.

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, do not apply.

/s/ Cary B. Lund
Cary B. Lund
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State April 15, 2013.

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

In the matter of the amendment of ARM 37.86.3607 pertaining to case management services for persons with developmental disabilities	))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On May 15, 2013, at 2:30 p.m., the Department of Public Health and Human Services will hold a public hearing in the Auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Public Health and Human Services no later than 5:00 p.m. on May 9, 2013, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.86.3607 CASE MANAGEMENT SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES, REIMBURSEMENT (1) Reimbursement for the delivery by provider entities of Medicaid funded targeted case management services to persons with developmental disabilities is provided as specified in Section One, Rates of Reimbursement for the Provision of Developmental Disabilities Case Management Services for Persons with Developmental Disabilities 16 Years of Age or Older and for Children with Developmental Disabilities Residing in a Children's Community Home, ~~effective August 1, 2012~~ dated July 1, 2013, of the Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures.

(2) The department adopts and incorporates by this reference Section One, Rates of Reimbursement for the Provision of Developmental Disabilities Case Management Services for Persons with Developmental Disabilities 16 Years of Age or Older and for Children with Developmental Disabilities Residing in a Children's Community Home, ~~in effect August 1, 2012~~ dated July 1, 2013, of the Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures, and published by the department as the Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures, Section One,

Rates of Reimbursement for the Provision of Developmental Disabilities Case Management Services for Persons with Developmental Disabilities 16 Years of Age or Older or Who Reside in a DD Children's Group Home. A copy of Section One of the manual may be obtained through the Department of Public Health and Human Services, Developmental Services Division, Developmental Disabilities Program, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210.

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

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) proposes to amend ARM 37.86.3607.

ARM 37.86.3607

ARM 37.86.3607 adopts and incorporates Section One of the Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures (manual). The proposed amendment adds the 15-minute unit rate for targeted case management based upon the current methodology in the manual and addresses the anticipated 2% provider rate increase funding expected to be implemented for State Fiscal Year (SFY) 2014, mandated by the 63rd Montana Legislature. The department proposes to update the effective date to July 1, 2013 in order to align the effective date with legislative actions. It is uncertain at this time if further amendments to the manual will be required.

Fiscal Impact

The proposed amendments to the above-proposed rules regarding targeted case management services provided through the Developmental Disabilities Program will increase the provider rates by 2%. The Legislature has appropriated $68,474 in total funds for SFY 2014 for this rate increase that will be effective July 1, 2013. Currently, there are approximately 3,000 persons receiving targeted case management.

5. The department intends the proposed rule changes to be applied effective July 1, 2013.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., May 23, 2013.

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, do not apply.

/s/ Cary B. Lund
Cary B. Lund
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State April 15, 2013.

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

In the matter of the amendment of ARM 37.34.3001, 37.34.3002, and 37.34.3005 and the repeal of ARM 37.34.3006, 37.34.3007, 37.34.3012, 37.34.3013, and 37.34.3015 pertaining to reimbursement for services	)))))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT AND REPEAL

TO: All Concerned Persons

1. On May 15, 2013, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in the Auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment and repeal of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Public Health and Human Services no later than 5:00 p.m. on May 9, 2013, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.34.3001 REIMBURSEMENT FOR SERVICES: GENERALLY (1) remains the same.

(2) Reimbursement for services and items is only available:

(a) through payments made to providers that have a current contract with the department authorizing the provider to deliver developmental disabilities services.; In addition a provider must be:

(i) currently enrolled in conformance with ARM 37.85.402 as a Montana Medicaid provider as evidenced by a signed current provider enrollment agreement, unless the type of provider is expressly exempted from the requirement by the department; and

(ii) designated by Developmental Disabilities Program (DDP) to be a qualified developmental disabilities provider, unless the program does not require the provision of the particular type of service or item by or through a qualified provider.

(b) for services and items that are authorized in rule or federal agreements for delivery through the particular developmental disabilities services program that the ~~consumer~~ person is authorized by the DDP to participate in;

(c) when the particular services and items delivered are authorized for delivery to the ~~consumer~~ person through the ~~consumer's~~ person's individual cost plan (ICP) as provided for in ARM 37.34.3002, or if the ICP is not applicable, the planning and authorization procedures applicable to the particular program;

(d) if the ~~consumer~~ person has received the services and items authorized; and

(e) remains the same.

(3) The contracted provider must be:

(a) currently enrolled in conformance with ARM 37.85.402 as a Montana Medicaid provider as evidenced by a signed current provider enrollment agreement, unless the type of provider is expressly exempted from the requirement by the department; and

(b) designated by the Developmental Disabilities Program (DDP) to be a qualified developmental disabilities provider, unless the program does not require the provision of the particular type of service or item by or through a qualified provider process.

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

~~(4)~~ (5) Reimbursement for the delivery of a service or item delivered to a ~~consumer~~ person through the department's DDP is payment in full and the provider may not receive further reimbursement for the service or item from the program, other departmental programs, ~~the consumer~~ or the person, or other parties.

~~(5)~~ (6) A provider in order to receive reimbursement for a service or item must properly invoice for the service or item through the DDP's electronic billing system~~, Agency Wide Accounting Client System (AWACS),~~ unless the service or item is not reimbursed through that payment system.

~~(6)~~ (7) ~~A provider may receive reimbursement from a consumer for a service or item that is not reimbursable through the DDP if, prior to delivery of the service or item, the provider and the consumer or the consumer's legitimate representative have entered into a written agreement that allows for the delivery of and payment for the service or item in an accountable manner.~~ A provider may seek reimbursement from a person receiving services for a service or an item only if the service or item is not covered for Medicaid purposes and the billing is allowed for and conducted in accordance with ARM 37.85.406(11)(a).

~~(7)~~ (8) A provider may not seek or obtain reimbursement from ~~a consumer~~ the person for a service or item that, though reimbursable by the DDP as a service or item, has not been reimbursed by the program due to the failure of the provider to properly seek reimbursement for the service or item or due to the failure of the provider to properly deliver the service or item to the ~~consumer~~ person.

(8) remains the same, but is renumbered (9).

(9) remains the same, but is renumbered (10).

(a) remains the same, but is renumbered (11).

(i) through (v) remain the same, but are renumbered (a) through (e).

(b) remains the same, but is renumbered (12).

~~(10)~~ (13) Reimbursement for services and items is not made directly to ~~consumers~~ persons receiving DDP funded services ~~or their representatives~~.

AUTH: 53-2-201, 53-6-113, 53-6-402, 53-20-204, MCA
IMP: 53-6-101, 53-6-111, 53-6-402, 53-20-203, 53-20-205, MCA

37.34.3002 REIMBURSEMENT FOR SERVICES: INDIVIDUAL COST PLANS (1) Authorization for the reimbursement ~~of~~ to a provider for the delivery of particular services and items to ~~an individual consumer~~ a person receiving Developmental Disabilities Program (DDP) funded services is based on the implementation of an individual cost plan (ICP) for the ~~consumer~~ person prior to the delivery of those services and items. ~~Absent an approved ICP for a consumer, reimbursement is not available for services and items delivered to the consumer.~~

~~(2) Services and items delivered to a consumer may not be reimbursed unless authorized in the consumer's ICP prior to the delivery of those services and items.~~

~~(3)~~ (2) Total ~~R~~reimbursement for the ~~delivered~~ services and items delivered to a person may not exceed the sum designated for the person's fiscal year maximum in the person's ICP.

(3) For each service specified in a person's ICP, the total sum expended for the service may not exceed the sum~~s~~ designated as available for ~~those services~~ that service in the ~~consumer's~~ person's ICP. ~~Nor may total reimbursement for the delivered services and items exceed the total of the sums designated as available for those services in the consumer's ICP.~~

(4) An ICP is developed by the ~~consumer's~~ person's case manager ~~for submission to the DDP regional office for review and approval~~. For services reimbursed on time units the case manager estimates the levels of service delivery based on a reasonable assessment of the direct care staff time necessary to meet the health and safety needs of the ~~consumer~~ person. The case manager uses the standardized reimbursement rates and any specified rates of reimbursement for particular services and items to calculate the amount of monies necessary to fund the services and items to be provided to the ~~consumer~~ person.

~~(5) All new proposed ICPs or proposed amendments to ICPs must be reviewed and authorized by the DDP's regional manager.~~

(6) remains the same, but is renumbered (5).

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

37.34.3005 REIMBURSEMENT FOR SERVICES~~: THE 0208 COMPREHENSIVE PROGRAM~~ OF MEDICAID FUNDED HOME AND COMMUNITY-BASED SERVICES WAIVER PROGRAMS (1) Reimbursement through the Developmental Disabilities Program's (DDP) Medicaid Home and Community-Based Services ~~0208 Comprehensive Services Program~~ ~~w~~Waiver Programs is only available to a provider for services or items:

(a) remains the same.

(b) delivered in accordance with the terms and conditions of the formal approval by the Centers for Medicare and Medicaid (CMS) governing ~~this waiver~~ each waiver program; and

~~(c) specified as 0208 comprehensive program services in ARM 37.34.911; and~~

~~(d)~~ (c) authorized in accordance with ARM 37.34.3002 for reimbursement through the ~~consumer's~~ person's individual cost plan (ICP).

(2) The department adopts and incorporates by this reference the rates of reimbursement for the delivery of services and items available through ~~the 0208 Comprehensive Program of~~ each Home and Community-Based Services Waiver Program as specified in Section Two: Rates of Reimbursement for the HCBS 1915(c) 0208, ~~0371~~ 1037, 0667 Waiver Programs, of the Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures, ~~published September 1, 2011~~ effective July 1, 2013. A copy of Section Two of the manual may be obtained through the Department of Public Health and Human Services, Developmental Services Division, Developmental Disabilities Program, 111 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210 and at ~~www.dphhs.mt.gov/dsd/ddp/forms.shtml~~ http://www.dphhs.mt.gov/dsd/ddp/ddprateinformation.shtml.

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

4. The department proposes to repeal the following rules:

37.34.3006 REIMBURSEMENT FOR SERVICES: THE 0371 COMMUNITY SUPPORTS PROGRAM OF MEDICAID FUNDED HOME AND COMMUNITY SERVICES, is found on page 37-7706 of the Administrative Rules of Montana.

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

37.34.3007 REIMBURSEMENT FOR SERVICES: THE 0667 AUTISM PROGRAM OF MEDICAID FUNDED HOME AND COMMUNITY SERVICES, is found on page 37-7707 of the Administrative Rules of Montana.

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

37.34.3012 REIMBURSEMENT FOR SERVICES: HOME AND COMMUNITY SERVICES FUNDED WITH NON-MEDICAID MONIES, is found on page 37-7709 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-20-204, MCA
IMP: 53-2-201, 53-20-203, 53-20-205, MCA

37.34.3013 REIMBURSEMENT FOR SERVICES: PART C EARLY INTERVENTION SERVICES PROGRAM, is found on page 37-7710 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-20-204, MCA
IMP: 53-2-201, 53-20-203, 53-20-205, MCA

37.34.3015 REIMBURSEMENT FOR SERVICES: TARGETED CASE MANAGEMENT SERVICES, is found on page 37-7710 of the Administrative Rules of Montana.

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

5. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (the department) is proposing amendments to Title 37, chapter 34, subchapter 30, Reimbursement for Services. This is necessary to reflect changes to the Section Two: Rates of Reimbursement for the HCBS 1915(c) 0208, 0371, 0667 Waiver Programs, of the Developmental Disabilities Program, Manual of Service Reimbursement Rates and Procedures, which is adopted and incorporated into rule. The department is applying for the renewal of the Home and Community-Based 1915(c) for Individuals with Developmental Disabilities waiver, as well as a new waiver, Supports for Community Working and Living. These proposed changes are shown in the manual.

ARM 37.34.3001 and 37.34.3002

The department proposes to amend ARM 37.34.3001 and 37.34.3002 in order to update rule language to provide clarity, achieve consistency with the other rules in Title 37, chapter 34, and to improve readability.

ARM 37.34.3005

This rule adopts and incorporates Section Two: Rates of Reimbursement for the HCBS 1915(c) 0208, 0371, 0667 Waiver Programs, of the Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures. The department proposes to amend the title of the manual. This change is necessary due to the proposed termination of the 0371 Waiver Program and the proposed establishment of the 1037 Waiver Program. The effective date of the rates manual will be updated from September 1, 2011 to July 1, 2013. The proposed language also updates the current and correct web site location for reviewing this manual.

ARM 37.34.3006 and 37.34.3007

The department proposes to repeal ARM 37.34.3006 and 37.34.3007. The current format of these rules separates each of the individual waiver programs into three

separate rules. The proposed new language in ARM 37.34.3005 combines each waiver into this rule. This is necessary because the manual adopted and incorporated into ARM 37.34.3005 encompasses each of the waiver programs and it is redundant to adopt the same manual into three separate rules.

ARM 37.34.3012, 37.34.3013, and 37.34.3015

The department proposes to repeal ARM 37.34.3012, 37.34.3013, and 37.34.3015. In order to reorganize Title 37, chapter 34, the department proposes the information contained in these three rules be relocated into the applicable program's subchapters. ARM 37.34.3012 applies to reimbursement for services, non-Medicaid funding, ARM 37.34.3013 applies to reimbursement for services, Part C Early Intervention Services, and ARM 37.34.3015 applies to Targeted Case Management Services.

Manual

The department is proposing adoption and incorporation into rule the Section Two: Rates of Reimbursement for the HCBS 1915(c) 0208, 1037, 0667 Waiver Programs, of the Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures. This is necessary to update current language to reflect changes occurring in the HCBS 1915(c) 0208 waiver, the proposed merger of the 0371 waiver with the 0208 waiver, and the establishment of the proposed new waiver the department is applying for, 1037 waiver or the Supports for Community Working and Living Waiver Program. The proposed fee schedule will take into consideration the anticipated 2% provider rate increase funding, expected to be implemented for State Fiscal Year (SFY) 2014, mandated by HB2 of the 63rd Montana Legislature.

The HCBS provider reimbursement schedule defines the rates and units of service for each of the HCBS waiver categories. As such, the HCBS waiver reimbursement services are intended to accomplish three purposes:

(a) that persons have fair and equitable access to services;

(b) that providers are fairly and equitably reimbursed for delivering those services; and

(c) that services purchased by people are delivered in sufficient and at acceptable quality standards.

Standard rates are derived from four standardized cost centers. Those include direct care staff compensation, employee-related expenses, program supervision and indirect expenses, and general and administrative expenses. Geographical factors are also applied for residential habilitation and work and day services. Economy-of-scale factors are applied to residential habilitation.

The proposed changes are necessary to add into Section Two of the manual the new day/work services rates for the HCBS 1915(c) 0208 Waiver. The services include: Supported Employment; Individual Employment Support; Follow Along Support; Small Group Employment Support; Co-Worker Support; and Job

Discovery/Job Preparation. The Day Services include: Adult Day Health; and Day Supports and Activities.

In addition, the department proposes to add into Section Two of the manual, the HCBS 1915(c) 1037 Supports for Community Working and Living Waiver Service reimbursement rates and procedures. The services are entirely employment related and self-directed, either through the agency with choice model or an employer authority using the financial management service (FMS) option. The services include:

Co-Worker Support
Follow Along Support
Individual Employment Support
Job Discovery/Job Preparation
Respite
Small Group Employment Support
Supports Brokerage
Environmental Modifications/Adaptive Equipment
Individual Goods and Services
Meals
Emergency Response System
Personal Supports
Transportation

The department removed the reference to the HCBS 1915(c) 0371 Waiver Program from the manual to reflect the proposed termination of the HCBS 1915(c) 0371 waiver with the HCBS 1915(c) 0208 Waiver. Other changes include updating terminology to bring consistency within the manual itself as well as the terminology used within the department.

Fiscal Impact

The proposed amendments reflect the legislative appropriation of $1,828,934 in total funds for state fiscal year (SFY) 2014, effective July 1, 2013 for these rate increases regarding Medicaid services provided through the Developmental Disabilities Program.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., May 23, 2013.

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, do not apply.

/s/ Cary B. Lund	/s/ Richard H. Opper
Cary B. Lund	Richard H. Opper, Director
Rule Reviewer	Public Health and Human Services

Certified to the Secretary of State April 15, 2013.

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

In the matter of the amendment of ARM 37.40.307, 37.40.325, and 37.40.361 pertaining to nursing facility reimbursement	))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On May 15, 2013, at 3:30 p.m., the Department of Public Health and Human Services will hold a public hearing in the Auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Public Health and Human Services no later than 5:00 p.m. on May 8, 2013, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

37.40.307 NURSING FACILITY REIMBURSEMENT (1) remains the same.

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

(a) through (c) remain the same.

(d) The total payment rate available for the ~~period September 1, 2012 through June 30, 2013~~ rate year will be the rate as computed in (2), plus any additional amount computed in ARM 37.40.311 and 37.40.361.

(3) through (12) remain the same.

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

37.40.325 CHANGE IN PROVIDER DEFINED (1) through (5) remain the same.

(6) Any change in provider, corporate or other business ownership structure, or operation of the facility that results in a change in the National Provider Identifier

(NPI) will require a provider to seek a new Medicaid provider enrollment. If the NPI is transferred with the facility, ~~then only a provider file update is required to change the federal tax identification number and ownership information~~ and this results in a change in the federal tax identification number, the provider will be required to seek a new Medicaid provider enrollment. ~~A written request must be made to the department if the NPI is transferred with the facility.~~

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

37.40.361 DIRECT CARE AND ANCILLARY SERVICES WORKERS' WAGE REPORTING/ADDITIONAL PAYMENTS INCLUDING LUMP SUM PAYMENTS FOR DIRECT CARE AND ANCILLARY SERVICES WORKERS' WAGE AND BENEFIT INCREASES (1) Effective ~~for~~ at the ~~period September 1, 2012~~ beginning of the rate year and for the six months thereafter, nursing facilities must report to the department actual hourly wage and benefit rates paid for all direct care and ancillary services workers or the lump sum payment amounts for all direct care and ancillary services workers that will receive the benefit of the increased funds. The reported data shall be used by the department for the purpose of comparing types and rates of payment for comparable services and tracking distribution of direct care wage funds to designated workers.

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

(a) The department will determine the lump sum payments, twice a year ~~commencing September 1, 2012,~~ with the first payment at the beginning of the rate year, and again in six months from that date as a pro rata share of appropriated funds allocated for increases in direct care and ancillary services workers' wages and benefits or lump sum payments to direct care and ancillary services workers.

(b) through (3) remain the same.

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

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (the department) is proposing amendments to ARM 37.40.307, 37.40.325, and 37.40.361, nursing facility services, regarding a 2% increase in Medicaid fees to providers. This increase is mandated by House Bill 2 (HB2) of the 63rd Montana Legislature.

These rules continue the methodology of implementing legislative funding for nursing facility reimbursement; including, updated estimated patient days, patient contribution amounts, and case mix indices (acuity) into the rate calculation for State Fiscal Year (SFY) 2014.

The Montana Legislature is still in session as of this date and the department does not have available, at this time, all of the information that will be necessary in order to establish final payment rates for nursing facility providers effective July 1, 2013. The final rates that will be set will be dependent on the funding levels authorized by the 63rd Legislature.

The Legislature has provided funding to implement a 2% provider rate increase effective July 1, 2013. In addition to the 2% provider rate increase, the Legislature has provided additional funding for nursing facility providers to be used only to raise nursing facility rates for Medicaid services above the level paid in "fiscal year 2012" and may be used only to augment any other rate increase for nursing facility Medicaid services.

Funding will continue to be available to provide for a direct care worker wage increase for nursing facility providers for workers who provide direct care and ancillary services in SFY 2014.

The Legislature continued approval for the use of local county matching funds as a source of additional revenue for nursing facility providers. The Intergovernmental Fund Transfer (IGT) Program maintains access to, and the quality of, nursing facility services, and will be available for SFY 2014.

The department will provide rate sheets to all providers in advance of the rule hearing, for verification purposes and in order to facilitate comments, when final case mix information and Medicaid utilization data and other details necessary to compute accurate reimbursement rates become available. These sheets will distribute the funding available in order to meet the department goals for a price-based system of reimbursement and will incorporate legislative appropriated funding levels.

The department has determined these rates are consistent with efficiency, economy, and quality of care and access to Medicaid services and concluded that the rates are sufficient to enlist enough providers so that care and services under the Montana Medicaid Program are available to the extent that such care and services are available to the general population in the geographic area.

The department administers the Montana Medicaid Program to provide health care to Montana's qualified low income and disabled residents. It is a public assistance program paid for with state and federal funds appropriated to pay health care providers for the covered medical services they deliver to Medicaid clients. The Legislature delegates authority to the department to set the reimbursement rates Montana pays Medicaid providers for Medicaid clients' covered services. See 53-6-106(8) and 53-5-113, MCA.

ARM 37.40.307 and 37.40.361

The department is proposing amendments to ARM 37.40.307 and 37.40.361 pertaining to Medicaid nursing facility services to remove the rate effective date of

September 1, 2012 in the reimbursement rule and in the direct care and ancillary services worker wage reimbursement rule and replace them with the term "rate year". This will provide that the department will no longer have to amend these rules to change this effective date in these rule sections annually. The term "rate year" is already defined in ARM 37.40.302(17) in the definitions section to mean, a 12-month period beginning July 1. For example, rate year 2006 means a period corresponding to the SFY July 1, 2005 through June 30, 2006.

ARM 37.40.325

Additionally, the department is proposing to amend (6) to require new Medicaid provider enrollment for any provider change that results in a change in the federal tax identification number.

Fiscal Impact

The proposed amendments, as mandated in House Bill 2 (HB2), to the above-mentioned rules regarding services provided through the Senior and Long Term Care Division will increase provider rates, and are necessary to implement legislative funding for nursing facility reimbursement for SFY 2014.

The Legislature has provided funding to implement a 2% provider rate increase effective July 1, 2013. Total funds for this 2% rate increase are $2,840,632. In addition to the 2% provider rate increase, the Legislature has provided additional funding for nursing facility providers to be used only to raise nursing facility rates for Medicaid services above the level paid in "fiscal year 2012" and may be used only to augment any other rate increase for nursing facility Medicaid services. This additional provider rate increase totals $2,957,255.

The total state and federal funding available for fiscal year 2014 for rate calculation purposes utilizing the funding in HB2 is currently projected at $145,540,218 which is comprised of $16,694,858 in state special revenue, $32,395,857 in state general funds, and $96,449,503 in federal funds when the provider rate increases are included. The estimated total funding available for fiscal year 2014 for nursing facility reimbursement is estimated at approximately $179,065,639 of combined state funds, federal funds, including $33,525,421 in patient contributions. These numbers do not include at-risk provider funds or direct care wage funding.

The additional funding for lump-sum payments to providers for direct-care workers and ancillary staff of $1,344,818 of general funds and $2,636,288 in federal funds for a total appropriation of $3,981,106 for the nursing facility direct care worker wage program is continued.

The estimated total funding impact of the onetime payments to 'at risk' nonstate governmental providers and other nursing facilities not determined to be 'at risk', has been appropriated at $22,651,002 in total funds of which $7,640,183 comes from state special revenue funds and approximately $15,010,819 comes from federal funding sources.

Anticipated days for state fiscal year 2014 are estimated at 1,060,260 using estimates of caseload adopted by the Legislature. Eighty-one nursing facility providers participated in the Medicaid nursing facility payment program and approximately 4,792 recipients received services in fiscal year 2013 in nursing facilities under Medicaid.

5. The department intends to adopt these rule amendments effective July 1, 2013.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., May 23, 2013.

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, do not apply.

/s/ Valerie A. Bashor
Valerie A. Bashor
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State April 15, 2013.

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

In the matter of the adoption of New Rules I and II, and the amendment of ARM 37.40.705, 37.40.1105, 37.40.1303, 37.79.102, 37.79.304, 37.85.105, 37.85.212, 37.86.105, 37.86.205, 37.86.805, 37.86.1004, 37.86.1006, 37.86.1105, 37.86.1506, 37.86.1802, 37.86.1807, 37.86.2005, 37.86.2206, 37.86.2207, 37.86.2230, 37.86.2405, 37.86.2505, 37.86.2605, 37.86.3020, 37.86.3515, 37.86.4010, 37.86.4205, 37.87.901, 37.87.1303, 37.87.1313, 37.87.1314, 37.87.1333, 37.87.2233, 37.88.907, 37.89.125, 37.89.523, and 37.90.408 pertaining to revision of fee schedules for Medicaid provider rates	)	NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION AND AMENDMENT

TO: All Concerned Persons

1. On May 15, 2013, at 10:00 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, 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 May 8, 2013, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail dphhslegal@mt.gov.

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

NEW RULE I EARLY AND PERIODIC SCREENING, DIAGNOSTIC AND TREATMENT SERVICES (EPSDT), ORIENTATION AND MOBILITY SPECIALIST SERVICES (1) Orientation and Mobility Specialist Services are those services provided by an individual with:

(a) a certification from the Academy for Certification of Vision Rehabilitation and Education Professionals (ACVREP); or

(b) a National Orientation and Mobility Certification (NOMC) offered by the National Blindness Professional Certification Board (NBPCB) to Medicaid clients with a diagnosis of a visual impairment.

(2) Orientation and Mobility Specialist Services are medically necessary services provided to Medicaid clients whose health conditions cause them to need vision-assisted services.

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

NEW RULE II EFFECTIVE DATES OF PROVIDER FEE SCHEDULES FOR MONTANA NON-MEDICAID SERVICES (1) The department adopts and incorporates by reference the fee schedule for the following programs within the Addictive and Mental Disorders Division and Developmental Services Division on the dates stated:

(a) Mental health services plan provider reimbursement, as provided in ARM 37.89.125, is effective July 1, 2013.

(b) 72-hour presumptive eligibility for adult-crisis stabilization services reimbursement for services, as provided in ARM 37.89.523, is effective July 1, 2013.

(c) Youth respite services reimbursement for services as provided in ARM 37.87.2233, is effective July 1, 2013.

(2) Copies of the department's current fee schedules are posted at http://medicaidprovider.hhs.mt.gov and may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1401 East Lockey, P.O. Box 202951, Helena, MT 59620-2951. A description of the method for setting the reimbursement rate and the administrative rules applicable to the covered service is published in the chapter or subchapter of this title regarding that service.

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

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

37.40.705 HOME HEALTH SERVICES, REIMBURSEMENT

(1) Reimbursement fees for home health services are as ~~provided for in this rule~~ referenced in ARM 37.85.105(4).

(2) ~~For h~~Home health services ~~provided on or after July 1, 2011, the reimbursement is the following for~~ reimbursement includes the following services:

(a) ~~a~~ nursing or therapy service ~~- $70.40 per visit~~;

(b) ~~a~~ home health aide visit ~~- $31.43~~; and

(c) medical supplies and equipment suitable for use in the home ~~- 90% of the amount allowable for the specific item under Medicare~~.

AUTH: 53-6-101, 53-6-113, MCA
IMP: 53-6-101, 53-6-111, 53-6-131, 53-6-141, MCA

37.40.1105 PERSONAL CARE SERVICES, AGENCY-BASED REIMBURSEMENT (1) Personal care services may be provided up to but not more than 40 hours of attendant service per week per ~~recipient~~ person as defined by the plan of care. The department may, within its discretion, authorize additional hours in excess of this limit. Any services exceeding this limit must be prior authorized by the department. Prior authorization for excess hours may be authorized if additional assistance is required for:

(a) through (c) remain the same.

(2) ~~The base reimbursement for personal care services is $4.45 per 15-minute unit of service. Reimbursement above this amount is conditional and negotiated with the department. The rate is for units of attendant and nurse supervision service.~~

~~(a) A unit of attendant service is 15 minutes and means an on-site visit specific to a recipient.~~

~~(b) A unit of nurse supervision service is 15 minutes and means an on-site recipient visit and related activity specific to that recipient.~~ Reimbursement fees for personal assistance services are as referenced in ARM 37.85.105(4).

(3) Personal assistance services include the following:

(a) attendant service is a 15-minute unit and means an on-site visit specific to a person;

(b) nurse supervision is a 15-minute unit and means an on-site person visit and related activity specific to that person;

(c) medical escort is a 15-minute unit and means transportation time and appointment time so the person can access an approved medical appointment; and

(d) mileage is a unit of one mile and means reimbursement for mileage when an attendant uses their vehicle to transport a person on an approved shopping trip.

~~(3)~~ (4) A person retained personally by a ~~recipient~~ person to deliver personal care services is not a provider of personal care services for the purposes of this rule and therefore may not be reimbursed for personal care services by the department.

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

AUTH: 53-2-201, 53-6-101, 53-6-113, MCA
IMP: 53-6-101, 53-6-141, MCA

37.40.1303 SELF-DIRECTED PERSONAL ASSISTANCE SERVICES, REIMBURSEMENT (1) Self-directed personal assistance services may be provided up to but not more than 40 hours of attendant service per week per ~~recipient~~ person as defined by the plan of care. The department may, within its discretion, authorize additional hours in excess of this limit. Any services exceeding this limit must be prior authorized by the department. Prior authorization for excess hours may be authorized if additional assistance is required for:

(a) through (c) remain the same.

(2) ~~The base reimbursement for self-directed personal assistance services is $3.68 per 15-minute unit of service. Reimbursement above this amount is conditional and negotiated with the department. The rate is for units of attendant and nurse supervision service.~~ Reimbursement fees for self-directed personal assistance services are as referenced in ARM 37.85.105(4).

~~(a) A unit of attendant service is 15 minutes and means an on-site visit specific to a recipient.~~

~~(b) A unit of nurse supervision service is 15 minutes and means an on-site recipient visit and related activity specific to that recipient.~~

(3) Self-directed personal assistance services include the following:

(a) attendant service is a 15-minute unit and means an on-site visit specific to a person;

(b) program oversight is a 15-minute unit and means an on-site person visit and related activity specific to that person;

(c) medical escort is a 15-minute unit and means transportation time and appointment time so the person can access an approved medical appointment; and

(d) mileage is a unit of one mile and means reimbursement for mileage when an attendant uses their vehicle to transport a person on an approved shopping trip.

~~(3)~~ (4) A person retained personally by a ~~recipient~~ person to deliver self-directed personal assistance services is not a provider of self-directed personal assistance services for the purpose of this rule and therefore may not be reimbursed for self-directed personal assistance services by the department.

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

AUTH: 53-6-113, MCA
IMP: 53-6-101, 53-6-145, MCA

37.79.102 DEFINITIONS As used in this subchapter, unless expressly provided otherwise, the following definitions apply:

(1) through (13) remain the same.

(14) "Federal poverty level (FPL)" means the poverty guidelines for ~~2012~~ 2013 for the 48 contiguous states and the District of Columbia as published under the "Annual Update on the HHS Poverty Guidelines" ~~77 Federal Register 17, pp 4034 - 4035, January 26, 2012~~ 78 Federal Register 16, pp 5182-5183, January 24, 2013.

(15) through (38) remain the same.

AUTH: 53-4-1004, 53-4-1009, 53-4-1105, MCA
IMP: 53-4-1003, 53-4-1004, 53-4-1009, 53-4-1103, 53-4-1104, 53-4-1105, 53-4-1108, MCA

37.79.304 SERVICES COVERED (1) The department adopts and incorporates by reference the HMK Evidence of Coverage dated ~~October 1, 2012~~ July 1, 2013 which is available on the department's web site at www.hmk.mt.gov.

(2) remains the same.

AUTH: 53-4-1009, 53-4-1105, MCA
IMP: 53-4-1005, 53-4-1109, MCA

37.85.105 EFFECTIVE DATES, CONVERSION FACTORS, POLICY ADJUSTERS, AND COST-TO-CHARGE RATIOS OF MONTANA MEDICAID PROVIDER FEE SCHEDULES (1) The Montana Medicaid ~~p~~Program establishes

provider reimbursement rates for medically necessary, covered services based on the estimated demand for services and the legislative appropriation and federal matching funds. Provider reimbursement rates are stated in fee schedules for covered services applicable to the identified Medicaid program. New rates are established by revising the identified program's fee schedule and adopting the new fees as of the stated effective date of the schedule. Copies of the department's current fee schedules are posted at http://medicaidprovider.hhs.mt.gov and may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1401 East Lockey, P.O. Box 202951, Helena, MT 59620-2951. A description of the method for setting the reimbursement rate and the administrative rules applicable to the covered service is published in the chapter or subchapter of this title regarding that service. The department will make quarterly updates as necessary to the fee schedule noted in this rule to include new procedure codes and applicable rates and removal of terminated procedure codes.

(2) The department adopts and incorporates by reference, the resource-based relative value scale (RBRVS) reimbursement methodology for specific providers as described in ARM 37.85.212 on the date stated.

(a) Resource-based relative value scale (RBRVS) means the version of the Medicare resource-based relative value scale contained in the Medicare Physician Fee Schedule adopted by the Centers for Medicare and Medicaid Services (CMS) of the U.S. Department of Health and Human Services and published at 77 Federal Register 222, 68891 (November 16, 2012), effective January 1, 2013 which is adopted and incorporated by reference.

(b) Fee schedules are effective July 1, 2013. The conversion factor for physician services is $31.86. The conversion factor for allied services is $23.11. The conversion factor for mental health services is $22.81. The conversion factor for anesthesia services is $27.55.

(c) Policy adjustors are effective July 1, 2013. The maternity policy adjustor is 112%. The family planning policy adjustor is 105%. The psychological testing for youth policy adjustor is 145%.

(d) The by-report rate is effective July 1, 2013 and is 46% of the provider's usual and customary charges.

(e) The specific percents for modifiers adopted by the department is effective July 1, 2013.

(f) Psychiatrists receive a 125% provider rate of reimbursement adjustment to the reimbursement of physicians effective July 1, 2013.

(g) Midlevel practitioners receive a 90% provider rate of reimbursement adjustment to the reimbursement of physicians for those services described in ARM 37.86.205(5)(b) effective July 1, 2013.

(h) Optometric services receive a 112% provider rate of reimbursement adjustment to the reimbursement for allied services as provided in ARM 37.85.105(2) effective July 1, 2013.

(i) Reimbursement for physician administered drugs described at ARM 37.86.105 is determined at 42 CFR 414.904 (2013) and is effective July 1, 2013.

~~(2)~~ (3) The department adopts and incorporates by reference, the fee schedule for the following programs within the Health Resources Division, on the date stated~~:~~.

~~(a) home and community-based services for elderly and physically disabled persons fee schedule, as provided in ARM 37.40.1421, is effective September 1, 2011.~~

~~(b)~~ (a) ~~i~~Inpatient hospital services fee schedule and inpatient hospital base rates ~~to~~ include:

(i) the APR-DRG fee schedule for inpatient hospitals as provided in ARM 37.86.2907, effective ~~April 1, 2013~~ July 1, 2013; and

(ii) the Montana Medicaid APR-DRG relative weight values, average national length of stay (ALOS), outlier thresholds, and APR grouper version 29 are contained in the APR-DRG Table of Weights and Thresholds effective ~~April 1, 2013~~ July 1, 2013. The department adopts and incorporates by reference the APR-DRG Table of Weights and Thresholds effective ~~April 1, 2013~~ July 1, 2013.

(b) Outpatient hospital services fee schedule include:

(i) the Outpatient Prospective Payment System (OPPS) fee schedule as published by the Centers for Medicare and Medicaid Services (CMS) in 71 Federal Register 226, effective January 1, 2007, and reviewed annually by CMS as required in 42 CFR 419.5 and updated quarterly by the department;

(ii) the conversion factor for outpatient services on or after July 1, 2013 is $50.61;

(iii) the Medicaid statewide average outpatient cost to charge ratio is 44.5%; and

(iv) the bundled composite rate of $267.24 for services provided in an outpatient maintenance dialysis clinic effective on or after July 1, 2013.

(c) The hearing aid services fee schedule, as provided in ARM 37.86.805, is effective July 1, 2013.

(d) The Relative Values for Dentists, as provided in ARM 37.86.1004, reference published in 2013 resulting in a dental conversion factor of $31.89 is effective July 1, 2013. The dental services covered procedures, the Dental and Denturist Program Provider Manual, as provided in ARM 37.86.1006, is effective July 1, 2013.

(e) The outpatient drugs reimbursement, dispensing fees range as provided in ARM 37.86.1105(2)(b) is effective July 1, 2013:

(i) a minimum of $2.00 and a maximum of $4.94 for brand-name and nonpreferred generic drugs;

(ii) a minimum of $2.00 and a maximum of $6.52 for preferred brand-name and generic drugs and generic drugs not identified on the preferred list;

(iii) outpatient drugs reimbursement, compound drug dispensing fee range as provided in ARM 37.86.1105(4), the dispensing fee for each compounded drug will be $12.50, $17.50, or $22.50 based on the level of effort required by the pharmacist, is effective July 1, 2013;

(iv) outpatient drugs reimbursement, vaccine administration as provided in ARM 37.86.1105(5), the vaccine administration fee will be $21.32 for the first vaccine and $13.38 for each additional administered vaccine, effective July 1, 2013; and

(v) out-of-state providers will be assigned a $3.50 dispensing fee.

(f) The home infusion therapy services fee schedule, as provided in ARM 37.86.1506, is effective July 1, 2013.

(g) Montana Medicaid adopts and incorporates by reference the Region D Supplier Manual which outlines the Medicare coverage criteria for Medicare covered durable medical equipment, local coverage determinations (LCDs), and national coverage determinations (NCDs) as provided in ARM 37.86.1802, effective July 1, 2013. The prosthetic devices, durable medical equipment, and medical supplies fee schedule, as provided in ARM 37.86.1807, is effective July 1, 2013.

(h) The early and periodic screening, diagnostic and treatment (EPSDT) services fee schedules for private duty nursing, nutrition and orientation, and mobility specialists as provided in ARM 37.86.2207(2), is effective July 1, 2013.

(i) The transportation and per diem fee schedule, as provided in ARM 37.86.2405, is effective July 1, 2013.

(j) The specialized nonemergency medical transportation fee schedule, as provided in ARM 37.86.2505, is effective July 1, 2013.

(k) The ambulance services fee schedule, as provided in ARM 37.86.2605, is effective July 1, 2013.

(4) The department adopts and incorporates by reference, the fee schedule for the following programs within the Senior and Long Term Care Division on the date stated:

(a) Home and community-based services for elderly and physically disabled persons fee schedule, as provided in ARM 37.40.1421, is effective July 1, 2013.

(b) Home health services fee schedule, as provided in ARM 37.40.705, is effective July 1, 2013.

(c) Personal assistance services fee schedule, as provided in ARM 37.40.1105, is effective July, 2013.

(d) Self-directed personal assistance services fee schedule, as provided in ARM 37.40.1303, is effective July 1, 2013.

(5) The department adopts and incorporates by reference, the fee schedule for the following programs within the Addictive and Mental Disorders Division on the date stated:

(a) Case management services for adults with severe disabling mental illness reimbursement, as provided in ARM 37.86.3515, is effective July 1, 2013.

(b) Mental health center services for adults reimbursement, as provided in ARM 37.88.907, is effective July 1, 2013.

(c) Home and community-based services for adults with severe disabling mental illness, reimbursement, as provided in ARM 37.90.408, is effective July 1, 2013.

(d) Targeted case management services for substance use disorders, reimbursement, as provided in ARM 37.86.4010, is effective July 1, 2013.

(6) The department adopts and incorporates by reference, the fee schedule for the following programs within the Developmental Services Division, on the date stated.

(a) Mental health services for youth, as provided in ARM 37.87.901 in the Medicaid Youth Mental Health Services Fee Schedule, is effective July 1, 2013.

(b) Mental health services for youth, as provided in ARM 37.87.1313 in the 1915(i) HCBS State Plan Program for Youth with Serious Emotional Disturbance Fee Schedule, is effective July 1, 2013.

(c) Mental health services for youth, as provided in ARM 37.87.1030 in the 1915(c) HCBS Bridge Waiver for Youth with Serious Emotional Disturbance Fee Schedule, is effective July 1, 2013.

AUTH: 53-2-201, 53-6-113, MCA
IMP: 53-2-201, 53-6-101, 53-6-402, MCA

37.85.212 RESOURCE-BASED RELATIVE VALUE SCALE (RBRVS) REIMBURSEMENT FOR SPECIFIED PROVIDER TYPES (1) For purposes of this rule, the following definitions apply:

(a) "Anesthesia units" means time and base units used to compute reimbursement under RBRVS for anesthesia services. Base units are those units as defined by the Medicare program. Time units are 15-minute intervals during which anesthesia is provided.

(b) "Conversion factor" means a dollar amount by which the relative value units, or the anesthesia units for anesthesia services, are multiplied in order to establish the RBRVS fee for a service. The effective date and conversion factor amounts are adopted at ARM 37.85.105(2). There are four conversion factor categories:

(i) physician services, which applies to the following health care professionals listed in (2): physicians, mid-level practitioners, podiatrists, public health clinics, independent diagnostic testing facilities (IDTF), qualified Medicare beneficiary (QMB) and early and periodic screening, diagnostic and treatment (EPSDT) chiropractors, laboratory and x-ray services, family planning clinics, and dentists providing medical services~~. The conversion factor for physician services for state fiscal year 2013 is $31.86~~;

(ii) allied services, which applies to the following health care professionals listed in (2): physical therapists, occupational therapists, speech therapists, optometrists, opticians, audiologists, ~~and~~ school-based services, birth attendants, and EPSDT orientation and mobility specialists~~. The conversion factor for allied services for state fiscal year 2013 is $23.11~~;

(iii) mental health services, which applies to the following health care professionals listed in (2): licensed psychologists, licensed clinical social workers, and licensed professional counselors~~. The conversion factor for mental health services for state fiscal year 2013 is $22.81~~; and

(iv) anesthesia services, which applies to anesthesia services. ~~The conversion factor for anesthesia services for state fiscal year 2013 is $27.55.~~

(c) through (h) remain the same.

(i) "Resource-based relative value scale (RBRVS)" means the ~~most current version of the~~ Medicare resource-based relative value scale contained in the Medicare Physician Fee Schedule adopted by the Centers for Medicare and Medicaid Services (CMS) of the U.S. Department of Health and Human Services ~~and published at 76 Federal Register 228, 73026 (November 28, 2011), effective January 1, 2012 which is adopted and incorporated by reference~~. The effective date and citation for the RBRVS is adopted at ARM 37.85.105(2). ~~A copy of the Medicare Physician Fee Schedule may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951,~~

~~Helena, MT 59620-2951. The RBRVS reflects RVUs for estimates of the actual effort and expense involved in providing different health care services.~~

~~(j) "Subsequent surgical procedure" means any additional surgical procedure or service, except for add-ons and modifier 51 exempt codes, performed after a primary operation in the same operative session.~~

(2) Services provided by the following health care professionals will be reimbursed in accordance with the RBRVS methodology set forth in (3):

(a) through (r) remain the same.

(s) family planning clinics; ~~and~~

(t) anesthesia services~~.~~;

(u) birth attendants; and

(v) EPSDT orientation and mobility specialists.

(3) and (4) remain the same.

(5) ~~For state fiscal year 2013, p~~Policy adjustors will be used to accomplish ~~the~~ targeted funding allocations. ~~The department's list of services affected by policy adjustors through July 1, 2013, is adopted and incorporated by reference. The list is available from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.~~ The effective date and amounts are as provided in ARM 37.85.105(2).

(6) and (7) remain the same.

(8) Except for physician administered drugs and vaccine administration as provided in ARM 37.86.105(4), clinical, laboratory services, and anesthesia services, if neither Medicare nor Medicaid sets RVUs or anesthesia units, then reimbursement is by-report.

(a) Through the by-report methodology the department reimburses a percent of the provider's usual and customary charges for a procedure code where no fee has been assigned. The percentage is determined by dividing the previous state fiscal year's total Medicaid reimbursement for RBRVS provider covered services by the previous state fiscal year's total Medicaid billings.

(b) ~~For state fiscal year 2013, the by report rate is 46% of the provider's usual and customary charges.~~ The effective date and by-report rate are as provided in ARM 37.85.105(2).

(9) through (9)(b)(i) remain the same.

(ii) the rate established using the by-report methodology; or

(A) for purposes of (9)(b) through (9)(b)(iii), the by-report methodology means averaging 50 paid claims for the same code that have been submitted within a 12-month span and then multiplying the average by the amount specified in (8)(b).

(iii) remains the same.

(10) For anesthesia services the department pays the lower of the following for procedure codes with fees:

(a) remains the same.

(b) a fee determined by multiplying the anesthesia conversion factor by the applicable anesthesia units, and then multiplying the product by the applicable policy adjustor, if any; or

(c) the department pays the lower of the following for procedure codes without fees:

(i) remains the same.

(ii) the by-report rate.

(11) For providers listed at ARM 37.85.212(2) billing for durable medical equipment, prosthetics, orthotics, and medical supplies (DMEPOS), except for the bundled items as provided in (13)~~;~~, the department pays:

(a) remains the same.

(b) if there is no fee in (11)(a), the amount determined by multiplying the by-report rate provided in (8)(b) by the billed charges.

(12) Subject to the provisions of (12)(a), when billed with a modifier, payment for procedures established under the provisions of (7) is a percentage of the rate established for the procedures.

(a) The methodology to determine the specific percent for each modifier is as follows:

(i) and (ii) remain the same.

(iii) The department's list of the specific percents for the modifiers used by Medicaid ~~as amended through July 1, 2013 is adopted and incorporated by reference. A copy of the list is available on request from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951~~ is adopted and incorporated by reference. A copy of the list is available on the department's web site at: hhttp://medicaidprovider.hhs.mt.gov/pdf/manuals/physician.pdf. The effective date and amounts are as provided in ARM 37.85.105(3).

~~(iv) Notwithstanding any other provision, procedure code modifiers "80", "81", "82", and "AS", used by assistant surgeons shall be reimbursed at 16% of the department's fee schedule.~~

~~(v) Notwithstanding any other provision, procedure code modifier "62" used by cosurgeons shall be reimbursed at 62.5% of the department's fee schedule for each cosurgeon.~~

~~(vi) Notwithstanding any other provision, subsequent surgical procedures shall be reimbursed at 50% of the department's fee schedule.~~

(13) remains the same.

(14) Providers must bill for services using the procedure codes and modifiers set forth, and according to the definitions contained in the Federal Health Care Administration's Common Procedure Coding System (HCPCS). Information regarding billing codes, modifiers, and HCPCS is available ~~upon request from the Health Resources Division at the address previously stated in this rule~~ in provider manuals located on the department's web site at: http://medicaidprovider.hhs.mt.gov/.

AUTH: 53-2-201, 53-6-113, MCA
IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, 53-6-125, MCA

37.86.105 PHYSICIAN SERVICES, REIMBURSEMENT/GENERAL REQUIREMENTS AND MODIFIERS (1) and (2) remain the same.

(3) Reimbursement for services of a psychiatrist, except as otherwise provided in this rule, is the lower of:

(a) remains the same.

(b) to address problems of access to mental health services, subject to funding, mental health services performed by a psychiatrist are reimbursed ~~up to 125%~~ using a provider rate of reimbursement which is a percentage of the reimbursement for physicians provided in accordance with the methodologies described in ARM 37.85.212. The effective date and percentage are as provided in ARM 37.85.105(2).

(4) Reimbursement to physicians for physician-administered drugs which are billed under HCPCS "J" and "Q" codes is made according to the department's fee schedule or the provider's usual and customary charge, whichever is lower. The department's fee schedule is updated at least annually based upon:

(a) ~~the Medicare Average Sale Price (ASP) set at 42 CFR 414.904 (2012) if there is an ASP fee~~ the effective date and citation for the Medicare Average Sale Price (ASP) as provided in ARM 37.85.105(2);

(b) through (7) remain the same.

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

37.86.205 MID-LEVEL PRACTITIONER SERVICES, REQUIREMENTS AND REIMBURSEMENT (1) through (4) remain the same.

(5) Reimbursement for services, except as otherwise provided in this rule, is the lower of:

(a) remains the same.

(b) ~~90%~~ a provider rate of reimbursement which is a percentage of the reimbursement for physicians provided in accordance with the methodologies described in ARM 37.85.212 and 37.86.105. The effective date and percentage is as provided in ARM 37.85.105(2).

(6) through (10) remain the same.

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

37.86.805 HEARING AID SERVICES, REIMBURSEMENT (1) The department will pay the lowest of the following for covered hearing aid services and items:

(a) remains the same.

(b) the amount specified for the particular service or item in the department's fee schedule. The department adopts and incorporates by reference the department's Hearing Aid Fee Schedule ~~dated January 2013~~ as provided in ARM 37.85.105(3). ~~A copy of the department's fee schedule is posted at http://medicaidprovider.hhs.mt.gov and may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1401 East Lockey, P.O. Box 202951, Helena, MT 59620-2951~~; or

(c) and (2) 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

37.86.1004 REIMBURSEMENT METHODOLOGY FOR RESOURCE-BASED RELATIVE VALUE FOR DENTISTS (RVD) (1) remains the same.

(a) The fee for a covered service shall be the amount determined by multiplying the relative value unit specified in the relative values for dentists scale by the conversion factor specified in (1)(c). The department adopts and incorporates by reference the Relative Values for Dentists (RVDs) ~~published in 2011~~ as provided in ARM 37.85.105(3). ~~The RVDs scale is available for inspection at the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.~~

(b) remains the same.

(c) The conversion factor used to determine the Medicaid payment amount for services provided to eligible individuals is ~~$31.27~~ provided in ARM 37.85.105(3).

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

37.86.1006 DENTAL SERVICES, COVERED PROCEDURES (1) For purposes of specifying coverage of dental services through the Medicaid program, the department adopts and incorporates by reference the Dental and Denturist Program Provider Manual ~~effective July 2009~~ as provided in ARM 37.85.105(3). The Dental and Denturist Program Provider Manual informs the providers of the requirements applicable to the delivery of services. Copies of the manual are available on the Montana Medicaid provider web site at http://medicaidprovider.hhs.mt.gov and from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.

(2) through (5) remain the same.

(6) Full maxillary and full mandibular dentures are a Medicaid covered service. Coverage is limited to one set of dentures every ten years. Only one lifetime exception to the ten-year time period is allowed per ~~recipient~~ person if one of the following exceptions is authorized by the department:

(a) and (b) remain the same.

(7) Maxillary partial dentures and mandibular partial dentures are a Medicaid covered service. Coverage is limited to one set of partial dentures every five years. Only one lifetime exception to the five-year limit is allowed per ~~recipient~~ person if one of the following exceptions is authorized by the department:

(a) and (b) remain the same.

(8) The limits on coverage of denture replacement may be exceeded when the department determines that the existing dentures are causing the ~~recipient~~ person serious physical health problems.

(a) through (9) remain the same.

(10) Orthodontia for ~~recipients~~ persons age 21 and older who have maxillofacial anomalies that must be corrected surgically and for which the orthodontia is a necessary adjunct to the surgery is a covered service.

(11) Full band orthodontia for ~~recipients~~ persons 21 and younger who have malocclusion caused by traumatic injury or needed as part of treatment for a medical

condition with orthodontic implications are covered in the department's Dental and Denturist Program Provider Manual.

(12) and (13) remain the same.

(14) Orthodontic treatment not progressing to the extent of the treatment plan because of noncompliance by the ~~recipient~~ person and which jeopardizes the health of the ~~recipient~~ person may result in termination of orthodontic treatment. If termination of orthodontic treatment occurs because of noncompliance by the ~~recipient~~ person, Medicaid will not authorize any future orthodontic requests for that ~~recipient~~ person.

(15) through (17) remain the same.

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

37.86.1105 OUTPATIENT DRUGS, REIMBURSEMENT (1) remains the same.

(2) The dispensing fee for filling prescriptions ~~shall~~ will be determined for each pharmacy provider annually.

(a) remains the same.

(b) The dispensing fees assigned ~~shall range between~~ will be as provided in ARM 37.85.105(3).~~:~~

~~(i) a minimum of $2.00 and a maximum of $4.94 for brand name and nonpreferred generic drugs; and~~

~~(ii) a minimum of $2.00 and a maximum of $6.40 for preferred brand name and generic drugs and generic drugs not identified on the preferred list.~~

~~(c) Out-of-state providers will be assigned a $3.50 dispensing fee.~~

~~(d)~~ (c) If the individual provider's usual and customary average dispensing fee for filling prescription is less than the foregoing method of determining the dispensing fee, then the lesser dispensing fee ~~shall~~ will be applied in the computation of the payment to the pharmacy provider.

(3) remains the same.

(4) The department ~~shall~~ will reimburse pharmacies for compounding drugs only if the client's drug therapy needs cannot be met by commercially available dosage strengths, ~~and/or~~ forms of the therapy, or both.

(a) Prescription claims for compound drugs ~~shall~~ will be billed and reimbursed using the National Drug Code (NDC) number and quantity for each compensable ingredient in the compound.

(b) remains the same.

(c) Reimbursement for each drug component ~~shall~~ will be determined in accordance with ARM 37.86.1101.

(d) remains the same.

(e) The department will reimburse pharmacies a compound-drug dispensing fee as provided in ARM 37.85.105(3) in lieu of the dispensing fee stated in (2). Prior authorization ~~shall~~ will be required ~~to be reimbursed~~ for ~~a~~ reimbursement above the lowest compound dispensing fee ~~over $12.50~~.

~~(f) The dispensing fee for each compounded drug shall be $12.50, $17.50, or $22.50 based on the level of effort required by the pharmacist.~~

(g) through (i) remain the same, but are renumbered (f) through (h).

(5) The department will reimburse pharmacies a vaccine administration fee as provided in ARM 37.85.105(3) in lieu of the dispensing fee stated in (2) for any covered vaccine as allowed by the Montana Pharmacy Practice Act, 37-7-101, MCA.

~~(5)~~ (6) Reimbursement for outpatient drugs provided to Medicaid ~~recipients~~ persons in state institutions ~~shall~~ will be as follows:

(a) for institutions participating in the state contract for pharmacy services, the rates agreed to in that contract. Such reimbursement ~~shall~~ must not exceed, in the aggregate, reimbursement under (1); or

(b) for institutions not participating in the state contract for pharmacy services, the actual cost of the drug and dispensing fee. Such reimbursement ~~shall~~ must not exceed, in the aggregate, reimbursement under (1).

~~(6)~~ (7) Full-benefit dual eligible ~~recipients~~ persons qualify for pharmaceutical drug coverage under Medicare Part D prescription drug plans (PDPs) on January 1, 2006 under 42 USC 1302, 1395w-101 through 1395w-152 (2011), the Medicare Prescription Drug Improvement and Modernization Act of 2003 (MMA). For purposes of the MMA and this rule, the term full-benefit dual eligible has the same meaning as stated in 42 CFR 423.772.

~~(7)~~ (8) The MMA allows PDPs to exclude from coverage the drug classes listed in 42 USC 1396r-8(d)(2) (2011). Montana Medicaid may also exclude these drugs and has chosen to do so except for the prescription and nonprescription drugs identified on the department's drug formulary. On January 1, 2006, Montana Medicaid's reimbursement for outpatient drugs provided to full-benefit dual eligible ~~recipients~~ persons, for whom third party payment is not available, will be limited to the excluded drugs identified on the department's drug formulary.

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

37.86.1506 HOME INFUSION THERAPY SERVICES, REIMBURSEMENT

(1) Subject to the requirements of these rules, the Montana Medicaid program will pay for home infusion therapy services on a fee basis, as specified in the department's home infusion therapy services fee schedule. The department adopts and incorporates by reference the Home Infusion Therapy Services Fee Schedule ~~dated July 1, 2012~~ as provided in ARM 37.85.105(3). A copy of the department's fee schedule is posted at the Montana Medicaid provider web site at http://medicaidprovider.hhs.mt.gov. A copy of the Home Infusion Therapy Services Fee Schedule may also be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951. The specified fees are on a per day or a per dose basis as specified in the fee schedule. The fees are bundled fees which cover all home infusion therapy services as defined in ARM 37.86.1501.

(2) For home infusion therapy services also reimbursed for the ~~recipient~~ person by the Medicare program, Medicare payments will be considered to be third party payments and, if the Medicare payment is less than the Medicaid fee schedule amount, Medicaid will pay the difference between the Medicare payment and the Medicaid fee specified in the home infusion therapy fee schedule described in (1).

(3) Covered drugs prepared and administered as part of a ~~recipient's~~ person's home infusion therapy program are separately billable under the Montana Medicaid Outpatient Drug program as specified in ARM 37.86.1102 and 37.86.1105.

(4) remains the same.

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

37.86.1802 PROSTHETIC DEVICES, DURABLE MEDICAL EQUIPMENT, AND MEDICAL SUPPLIES, GENERAL REQUIREMENTS (1) remains the same.

(2) Reimbursement for prosthetic devices, durable medical equipment, and medical supplies ~~shall~~ will be limited to items delivered in the most appropriate and cost effective manner. Montana Medicaid adopts Medicare coverage criteria for Medicare covered durable medical equipment as outlined in the Region D Supplier Manual, local coverage determinations (LCDs) and national coverage determinations (NCDs) ~~dated January 2013~~ and as provided in ARM 37.85.105(3). For prosthetic devices, durable medical equipment, and medical supplies not covered by Medicare coverage will be determined by the department. The items must be medically necessary and prescribed in accordance with (2)(a) by a physician or other licensed practitioner of the healing arts within the scope of his practice as defined by state law.

(a) The prescription must indicate the diagnosis, the medical necessity, and projected length of need for prosthetic devices, durable medical equipment, and medical supplies. The original prescription must be retained in accordance with the requirements of ARM 37.85.414. Prescriptions may be transmitted by an authorized provider to the durable medical equipment provider by electronic means or pursuant to an oral prescription made by an individual practitioner and promptly reduced to hard copy by the durable medical equipment provider containing all information required. Prescriptions for durable medical equipment, prosthetics, and orthotics (DMEPOS) ~~shall~~ must follow the Medicare criteria outlined in chapters 3 and 4 of the Region D Medicare Supplier Manual ~~(January 1, 2013), which is adopted and incorporated by reference~~ as provided in ARM 37.85.105(3). A copy of the Region D Medicare Supplier Manual may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1401 East Lockey, P.O. Box 202951, Helena, MT 59620-2951. For items requiring prior authorization the provider must include a copy of the prescription when submitting the prior authorization request.

(i) Prescriptions for oxygen ~~shall~~ must include the liter flow per minute, the hours of use per day, and the ~~recipient's~~ person's PO2 or oxygen saturation blood test(s) results.

(b) Subject to the provisions of (3), medical necessity for oxygen is determined in accordance with the Medicare criteria outlined in the Medicare Durable Medical Equipment Regional Carrier (DMERC) Region D Supplier Manual, ~~(January 1, 2013)~~, Local Coverage Determination (LCD) and policy articles ~~(January 1, 2013)~~, and National Coverage Determination (NCD) ~~(January 1, 2013), which are adopted and incorporated by reference~~ as provided in ARM 37.85.105(3). The Medicare criteria specify the health conditions and levels of hypoxemia in terms of

blood gas values for which oxygen will be considered medically necessary. The Medicare criteria also specify the medical documentation and laboratory evidence required to support medical necessity. ~~A copy of the Medicare criteria may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1401 East Lockey, P.O. Box 202951, Helena, MT 59620-2951.~~

(c) remains the same.

(d) A statement of medical necessity for the rental of durable medical equipment, excluding oxygen equipment, ~~shall~~ must indicate the length of time the equipment will be needed. All prescriptions ~~shall~~ must be signed and dated.

(e) No more than one month's medical supplies may be provided to a Medicaid ~~recipient~~ person based on the physician's orders.

(f) remains the same.

(g) ~~Recipients~~ Persons ~~shall~~ will be limited to a new wheelchair no more than once every five years, unless the department determines that a new chair is required sooner because the ~~recipient's~~ person's current chair is causing the ~~recipient~~ person serious health problems or because of a significant change in the ~~recipient's~~ person's medical condition.

(3) Providers of oxygen to ~~recipients~~ persons for whom oxygen was determined to be medically necessary prior to the adoption of the Medicare criteria, effective March 1, 1998, set forth in (2) may be reimbursed for oxygen services to those ~~recipients~~ persons, even though the oxygen would not be medically necessary for them under the Medicare criteria, until the ~~recipient's~~ person's next recertification of medical necessity.

(4) and (5) remain the same.

(6) The following items are not reimbursable by the program:

(a) through (f) remain the same.

(g) any delivery, mailing or shipping fees, or other costs of transporting the item to the ~~recipient's~~ person's location;

(h) through (7) 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

37.86.1807 PROSTHETIC DEVICES, DURABLE MEDICAL EQUIPMENT, AND MEDICAL SUPPLIES, FEE SCHEDULE (1) remains the same.

(2) Prosthetic devices, durable medical equipment, and medical supplies ~~shall~~ will be reimbursed in accordance with the department's Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Fee Schedule, ~~effective January 2013~~ as provided in ARM 37.85.105(3), which is adopted and incorporated by reference. ~~A copy of the department's fee schedule is posted at the Montana Medicaid provider web site at http://medicaidprovider.hhs.mt.gov. A copy of the department's Prosthetic Devices, Durable Medical Equipment, and Medical Supplies Fee Schedule may also be obtained from the Department of Public Health and Human Services, Health Resources Division, 1401 East Lockey, P.O. Box 202951, Helena, MT 59620-2951.~~

(3) The department's DMEPOS Fee Schedule for items other than those billed under generic or miscellaneous codes as described in (1) ~~shall~~ will include fees set and maintained according to the following methodology:

(a) remains the same.

(b) Except as provided in (4), for all items for which no Medicare allowable fee is available, the department's fee schedule amount ~~shall~~ will be 75% of the provider's usual and customary charge.

(i) and (ii) remain the same.

(4) The department's DMEPOS Fee Schedule, referred to in ARM 37.86.1807(2), for items billed under generic or miscellaneous codes as described in (1) ~~shall~~ will be 75% of the provider's usual and customary charge as defined in (3)(b)(i).

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

37.86.2005 OPTOMETRIC SERVICES, REIMBURSEMENT (1) Subject to the requirements of this rule, the Montana Medicaid ~~p~~Program pays the following for optometric services:

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

(ii) to address problems of access to optometric services, subject to funding, up to ~~112%~~ the level provided in ARM 37.85.105(3) of the reimbursement for allied services provided in accordance with the methodologies described in ARM 37.85.212.

AUTH: 53-6-113, MCA
IMP: 53-6-101, 53-6-113, 53-6-141, MCA

37.86.2206 EARLY AND PERIODIC SCREENING, DIAGNOSTIC AND TREATMENT SERVICES (EPSDT), MEDICAL AND OTHER SERVICES

(1) remains the same.

(2) In addition to the services generally available to Medicaid ~~recipients~~ persons, the following services are available to EPSDT eligible persons:

(a) through (d) remain the same.

(e) ~~the therapeutic portion of medically necessary therapeutic group home (TGH) treatment~~ mental health services for youth as provided in ARM Title 37, chapter 87;

~~(f) the therapeutic portion of medically necessary therapeutic family care (TFC) and therapeutic foster care (TFOC) treatment as provided in ARM 37.87.1023; and~~

~~(g)~~ (f) school-based health related services as provided in ARM 37.86.2230; and

(g) orientation and mobility specialist services as provided in [NEW RULE I].

~~(3) The therapeutic portion of TGH, TFC, and TFOC must be prior-authorized by the department or their designee before services are provided.~~

~~(a) Review of authorization requests by the department or its designee will be made consistent with Children's Mental Health Bureau's (CMHB) Provider Manual~~

~~and Clinical Guidelines for Utilization Management adopted in ARM 37.87.903. A copy of the CMHB Provider Manual and Clinical Guidelines for Utilization Management can be obtained from the department by a request in writing to the Department of Public Health and Human Services, Developmental Services Division, Children's Mental Health Bureau, 111 Sanders, PO Box 4210, Helena MT 59604-4210.~~

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

37.86.2207 EARLY AND PERIODIC SCREENING, DIAGNOSTIC AND TREATMENT (EPSDT) SERVICES, REIMBURSEMENT (1) Reimbursement for an EPSDT service, except as otherwise provided in this rule, is the lowest of the following:

(a) and (b) remain the same.

(c) the department's Medicaid Mental Health Fee Schedule~~, except for the by-report method~~ as provided in ARM 37.85.105(6); or

(d) remains the same.

(2) Reimbursement for nutrition, ~~and~~ private duty nursing services, and orientation and mobility specialist services are ~~is~~ specified in the department's fee schedule. The department adopts and incorporates by reference the department's ~~p~~Private ~~d~~Duty ~~n~~Nursing ~~s~~Services EPSDT Fee Schedule, ~~dated August 2011 and~~ the ~~n~~Nutrition EPSDT Fee Schedule, ~~dated August 2011~~ and the Orientation and Mobility Specialist EPSDT Fee Schedule as provided in ARM 37.85.105(3). ~~The fee schedules are posted at http://medicaidprovider.hhs.mt.gov.~~ Reimbursement for outpatient chemical dependency treatment is outlined in ARM 37.27.912. ~~A copy of the Nutrition and Private Duty Nursing Services Fee Schedules may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.~~

(3) remains the same.

(4) Reimbursements for school-based health related services are specified in the School-Based Health Service Fee Schedule. ~~A copy of the School-Based Health Service Fee Schedule is posted at http://medicaidprovider.hhs.mt.gov.~~ Rates are adjusted to reimburse these services at the federal medical assistance percentage (FMAP) rate.

~~(5) Information regarding current reimbursement or copies of fee schedules for EPSDT services may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.~~

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

37.86.2230 EARLY AND PERIODIC SCREENING, DIAGNOSTIC AND TREATMENT SERVICES (EPSDT), SCHOOL-BASED HEALTH RELATED SERVICES (1) remains the same.

(2) School-based health related services may include:

(a) through (i) remain the same.
(j) comprehensive school and community treatment; ~~and~~
(k) specialized transportation; and
(l) orientation and mobility specialist services.
(3) through (5) remain the same.

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

37.86.2405 TRANSPORTATION AND PER DIEM, REIMBURSEMENT
(1) remains the same.
(2) The department adopts and incorporates by reference the department's Montana Medicaid Fee Schedule, Personal and Commercial Transportation ~~dated August 2011~~ as provided in ARM 37.85.105(3) that sets forth the reimbursement rates for transportation, per diem, and other Medicaid services. ~~A copy of the department's fee schedule is posted at the Montana Medicaid provider web site at http://medicaidprovider.hhs.mt.gov. A copy of the fee schedule may also be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.~~
(3) through (5) remain the same.

AUTH: 53-2-201, 53-6-113, MCA
IMP: 53-6-101, 53-6-113, 53-6-141, MCA

37.86.2505 SPECIALIZED NONEMERGENCY MEDICAL TRANSPORTATION, REIMBURSEMENT (1) remains the same.
(2) The department adopts and incorporates by reference the department's fee schedule ~~dated July 2010~~ as provided in ARM 37.85.105(3) that sets forth the reimbursement rates for specialized nonemergency medical transportation services and other Medicaid services. ~~A copy of the fee schedule is posted at the Montana Medicaid provider web site at http://medicaidprovider.hhs.mt.gov. A copy of the department's fee schedule may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.~~

AUTH: 53-2-201, 53-6-113, MCA
IMP: 53-6-101, 53-6-113, 53-6-141, MCA

37.86.2605 AMBULANCE SERVICES, REIMBURSEMENT (1) remains the same.
(2) The department adopts and incorporates by reference the Montana Medicaid Fee Schedule, Ambulance ~~dated August 2011~~ as provided in ARM 37.85.105(3). ~~A copy of the fee schedule is posted at the Montana Medicaid provider web site at http://medicaidprovider.hhs.mt.gov. A copy of the department's fee schedule may be obtained from the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.~~

(3) For items and services for which no fee has been set in the department's fee schedule referred to in (2), reimbursement will be based on the by-report method and rate specified in ARM ~~37.85.212~~ 37.85.105(2).

(a) through (b)(iii) remain the same.

(4) The department may reimburse providers for ambulance services to transport patients to and from out-of-state facilities at negotiated fees where the department or its designee in its discretion determines that the in-state reimbursement rates are inadequate to assure that the ~~recipient~~ person will receive medically necessary services.

AUTH: 53-2-201, 53-6-113, MCA
IMP: 53-6-101, 53-6-113, 53-6-141, MCA

37.86.3020 OUTPATIENT HOSPITAL SERVICES, OUTPATIENT PROSPECTIVE PAYMENT SYSTEM (OPPS) METHODOLOGY, AMBULATORY PAYMENT CLASSIFICATION (1) Outpatient hospital or birthing center services that are not provided by critical access hospitals will be reimbursed on a rate-per-service basis using the Outpatient Prospective Payment System (OPPS) schedules. The provider reimbursement rates for outpatient hospital services is stated in the department's Outpatient Prospective Payment System (OPPS) Fee Schedule as provided in ARM 37.85.105(3). Under this system, Medicaid payment for outpatient services included in the OPPS is made at a predetermined, specific rate. These outpatient services are classified according to a list of APCs published annually in the Code of Federal Regulations (CFR). The rates for OPPS are determined as follows:

(a) The department uses a conversion factor for each APC group as defined in ARM 37.86.3001(5). ~~The conversion factor for services on or after July 1, 2008 is $50.61.~~ The conversion factor is as provided in ARM 37.85.105(3). The APC-based fee equals the Medicare specific relative weight for the APC times the conversion factor that is the same for all APCs with the exceptions of services in ARM 37.86.3025. APCs are based on classification assignment of CPT/HCPCS codes.

(b) through (d) remain the same.

(e) If the OPPS does not assign a Medicare fee or APC for a particular procedure code, a Medicaid fee will be assigned in accordance with the resource-based relative value scale (RBRVS) methodology found at ARM 37.85.212. If there is not a Medicaid fee, the service will be reimbursed at hospital-specific outpatient cost-to-charge ratio as in ARM 37.86.2803. Birthing centers and out-of-state hospitals will be reimbursed the statewide outpatient cost-to-charge ratio:

(i) ~~Medicaid statewide average outpatient cost-to-charge ratio is 44.5%.~~ The Medicaid statewide average outpatient cost-to-charge ratio is as provided at ARM 37.85.105(3).

(f) through (h) remain the same.

(2) The department adopts and incorporates by reference the OPPS Schedules published by the Centers for Medicare and Medicaid Services (CMS) ~~in 71 Federal Register 226, effective January 1, 2007 and reviewed annually by CMS as required in 42 CFR 419.5~~ as provided in ARM 37.85.105(3). ~~A copy may be~~

~~obtained through the Department of Public Health and Human Services, Health Resources Division, 1400 Broadway, P.O. Box 202951, Helena, MT 59620-2951.~~

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

37.86.3515 CASE MANAGEMENT SERVICES FOR ADULTS WITH SEVERE DISABLING MENTAL ILLNESS, REIMBURSEMENT (1) and (2) remain the same.

(3) The department adopts and incorporates by reference the department's fee schedule ~~dated August 1, 2011~~ which sets forth the reimbursement rates for case management. ~~A copy of the fee schedule is posted at the Montana Medicaid provider web site at www.dphhs.mt.gov/amdd/services/index.shmtl. A copy of the department's fee schedule may be obtained from the Department of Public Health and Human Services, Addictive and Mental Disorders Division, PO Box 202905, Helena, MT 59620-2905.~~ The provider reimbursement rate for case management services for persons with severe disabling mental illness is stated in the department's fee schedule as provided in ARM 37.85.105(5).

(4) remains the same.

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

37.86.4010 TARGETED CASE MANAGEMENT SERVICES FOR SUBSTANCE USE DISORDERS, REIMBURSEMENT (1) and (2) remain the same.

(3) The provider reimbursement rate for case management services for substance use disorders is stated in the department's fee schedule provided in ARM 37.85.105(5).

(3) and (4) remain the same, but are renumbered (4) and (5).

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

37.86.4205 DIALYSIS CLINICS FOR END STAGE RENAL DISEASE, REIMBURSEMENT (1) Reimbursement for outpatient maintenance dialysis and other related services provided in a ~~DC will be a~~ dialysis clinic to include the bundled composite rate ~~of $262~~ is effective ~~October 1, 2011~~ as provided in ARM 37.85.105(3). The department will not allow add-on adjustments to the composite rate.

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

37.87.901 MEDICAID MENTAL HEALTH SERVICES FOR YOUTH, REIMBURSEMENT (1) Medicaid reimbursement for mental health services shall be the lowest of:

(a) remains the same.

(b) the rate established in the department's fee schedule. ~~The department adopts and incorporates by reference the department's Medicaid Youth Mental Health Services Fee Schedule dated January 31, 2013.~~ Reimbursement fees are as provided in ARM 37.85.105(6). ~~A copy of the fee schedule may be obtained from the Department of Public Health and Human Services, Developmental Services Division, Children's Mental Health Bureau, 111 Sanders, P.O. Box 4210, Helena, MT 59604 or at www.mt.medicaid.org.~~

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

37.87.1303 HOME AND COMMUNITY-BASED 1915(c) SERVICES BRIDGE WAIVER FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: FEDERAL AUTHORIZATION AND AUTHORITY OF STATE TO ADMINISTER PROGRAM

(1) through (3) remain the same.

(4) The 1915(c) home and community-based bridge waiver services for youth with serious emotional disturbance must be delivered in accordance with the requirements and limitations of the Home and Community-Based Services Bridge Waiver for Youth with Serious Emotional Disturbance Policy Manual dated ~~October 1, 2012~~ July 1, 2013. ~~A copy of the manual may be obtained from the Department of Public Health and Human Services, Developmental Services Division, Children's Mental Health Bureau, 111 Sanders, P.O. Box 4210, Helena, MT 59604 or at http://www.dphhs.mt.gov/mentalhealth/children/.~~

(5) The department adopts and incorporates by reference the 1915(c) HCBS Bridge Waiver for Youth with Serious Emotional Disturbance Policy Manual, dated July 1, 2013. A copy of the manual may be obtained from the Department of Public Health and Human Services, Developmental Services Division, Children's Mental Health Bureau, 111 Sanders, P.O. Box 4210, Helena, MT 59604 or at http://www.dphhs.mt.gov/mentalhealth/children/.

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

37.87.1313 1915(i) HOME AND COMMUNITY-BASED SERVICES (HCBS) STATE PLAN PROGRAM FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: FEDERAL AUTHORIZATION AND AUTHORITY OF STATE TO ADMINISTER PROGRAM (1) through (3) remain the same.

(4) The 1915(i) home and community-based services state plan program for youth with serious emotional disturbance must be delivered in accordance with the requirements and limitations of the 1915(i) HCBS State Plan Program for Youth with Serious Emotional Disturbance Policy Manual dated ~~January 1, 2013~~ July 1, 2013. ~~A copy of the manual may be obtained from the Department of Public Health and Human Services, Developmental Services Division, Children's Mental Health Bureau, 111 Sanders, P.O. Box 4210, Helena, MT 59604 or at http://www.dphhs.mt.gov/mentalhealth/children/.~~

(5) The department adopts and incorporates by reference the 1915(i) HCBS State Plan Program for Youth with Serious Emotional Disturbance Policy Manual,

dated July 1, 2013. A copy of the manual may be obtained from the Department of Public Health and Human Services, Developmental Services Division, Children's Mental Health Bureau, 111 Sanders, P.O. Box 4210, Helena, MT 59604 or at http://www.dphhs.mt.gov/mentalhealth/children/.

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

37.87.1314 1915(i) HOME AND COMMUNITY-BASED SERVICES (HCBS) STATE PLAN PROGRAM 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 1915(i) HCBS State Plan Program for Youth with Serious Emotional Disturbance Policy Manual dated January 1, 2013 which the department adopts and incorporates by reference. A copy of the 1915(i) HCBS State Plan Program for Youth with Serious Emotional Disturbance Policy Manual dated January 1, 2013 may be obtained through the Department of Public Health and Human Services, Developmental Services Division, Children's Mental Health Bureau, 111 N Sanders, P.O. Box 4210, Helena, MT 59604 or at http://www.dphhs.mt.gov/mentalhealth/children/~~ the 1915(i) HCBS State Plan Program for Youth with Serious Emotional Disturbance Fee Schedule as provided in ARM 37.85.105(6).

(3) and (4) remain the same.

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

37.87.1333 HOME AND COMMUNITY-BASED 1915(c) SERVICES BRIDGE WAIVER FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: REIMBURSEMENT (1) Services available through the program are reimbursed as provided in this rule.

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

(a) remains the same.

(b) ~~the fees stated in Appendix A with an effective date of October 1, 2012 contained in the program's Home and Community-Based Services Bridge Waiver for Youth with Serious Emotional Disturbance Policy Manual dated October 1, 2012. The department adopts and incorporates by reference the policy manual which may be obtained through the Department of Public Health and Human Services, Developmental Services Division, Children's Mental Health Bureau, 111 North Sanders, P.O. Box 4210, Helena, MT 59604-4210 or at http://www.dphhs.mt.gov/mentalhealth/children/.~~ the 1915(c) HCBS Bridge Waiver for Youth with Serious Emotional Disturbance Fee Schedule as referenced in ARM 37.85.105(6).

(3) and (4) remain the same.

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

IMP: 53-6-402, MCA

37.87.2233 MENTAL HEALTH SERVICES FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE (SED) RESPITE CARE SERVICES, PROVIDER REIMBURSEMENT (1) Respite care services are non-Medicaid funded services except for youth with SED enrolled in the ~~Psychiatric Residential Treatment Facility Waiver~~ Home and Community-Based 1915(c) Services Bridge Waiver for Youth with Serious Emotional Disturbance in accordance with ARM 37.87.1303 through ~~37.87.1343~~ 37.87.1335, and the 1915(i) HCBS State Plan Program for Youth with Serious Emotional Disturbance in accordance with ARM 37.87.1303, 37.87.1313, 37.87.1314, 37.87.1315, 37.87.1333, and 37.87.1335.

(2) remains the same.

(3) Reimbursement for respite care services is as provided in the department's Medicaid fee schedule, as adopted in ARM ~~37.87.901~~ 37.85.105(6).

(4) remains the same.

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

37.88.907 MENTAL HEALTH CENTER SERVICES FOR ADULTS, REIMBURSEMENT (1) The department adopts and incorporates by reference the Medicaid Adult Mental Health and the Adult Mental Health Services Plan fee schedule~~s dated August 1, 2011~~ as provided in ARM 37.85.105(5). A copy of the department's fee schedule is posted at the Montana Medicaid provider web site at www.dphhs.mt.gov/amdd/services/index/shtml. A copy may be obtained from the Department of Public Health and Human Services, Addictive and Mental Disorders Division, PO Box 202905, Helena, MT 59620-2905. Medicaid reimbursement for mental health center services ~~shall~~ will be the lowest of:

(a) and (b) remain the same.

(2) The provider reimbursement rate for a covered service for mental health centers is stated in the department's fee schedule adopted and effective at ARM 37.85.105(5). These fees are calculated based on:

(a) the biennial legislative appropriation; and

(b) the estimated demand for covered services during the biennium.

(2) through (6) remain the same, but are renumbered (3) through (7).

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

37.89.125 MENTAL HEALTH SERVICES PLAN, PROVIDER REIMBURSEMENT (1) remains the same.

(a) For services covered under the plan, reimbursement under the plan is subject to the same requirements, restrictions, limitations, rates, fees and other provisions that would apply to the service if it were provided to a Medicaid ~~recipient~~ person, except as otherwise provided in these rules. However, if a service is not covered under the plan, the fact that the service is or would be covered by Medicaid if provided to a Medicaid ~~recipient~~ person, does not entitle the provider, member, or

any other person or entity to coverage or reimbursement of the service under the plan.

(i) through (5) remain the same.

(6) The provider reimbursement rate for services under the Mental Health Services Plan is stated in the department's fee schedule as provided in [NEW RULE II]. These fees are calculated based on:

(a) the biennial legislative appropriation; and

(b) the estimated demand for covered demand for covered services during the biennium.

AUTH: 53-2-201, 53-6-113, 53-21-703, MCA
IMP: 53-1-601, 53-2-201, 53-6-101, 53-6-116, 53-6-701, 53-6-705, 53-21-202, 53-21-702, MCA

37.89.523 72-HOUR PRESUMPTIVE ELIGIBILITY FOR ADULT CRISIS STABILIZATION SERVICES: REIMBURSEMENT FOR SERVICES

(1) The department adopts and incorporates by reference the Medicaid 72-Hour Presumptive Eligibility Crisis Stabilization Services fee schedule dated August 2011. A copy of the department's fee schedule is posted at the Montana Medicaid provider web site at www.dphhs.mt.gov/amdd/services/index.shtml. A copy may be obtained from the Department of Public Health and Human Services, Addictive and Mental Disorders Division, PO Box 202905, Helena, MT 59620-2951. Reimbursement for services delivered under this subchapter will be the amounts listed in the fee schedule. The provider reimbursement rate for 72-Hour Presumptive Eligibility Crisis Stabilization Services is stated in the department's fee schedule as provided in [New Rule II]. These fees are calculated based on:

(a) the biennial legislative appropriation; and

(b) the estimated demand for covered services during the biennium.

(2) remains the same.

~~(3) The department may revise the Crisis Stabilization Services Fee Schedule from time to time. A copy of the current fee schedule may be obtained from the Department of Public Health and Human Services, Addictive and Mental Disorders Division, 555 Fuller, P.O. Box 202905, Helena, MT 59620-2905.~~

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

37.90.408 HOME AND COMMUNITY-BASED SERVICES FOR ADULTS WITH SEVERE DISABLING MENTAL ILLNESS: REIMBURSEMENT (1) The department adopts and incorporates by reference the Medicaid Home and Community-Based Services for Adults With Severe Disabling Mental Illness ~~f~~Fee ~~s~~Schedule. ~~A copy of the department's fee schedule is posted at the Montana Medicaid provider web site at www.dphhs.mt.gov/amdd/services/index.shtml. A copy may be obtained from the Department of Public Health and Human Services, Addictive and Mental Disorders Division, PO Box 202905, Helena, MT 59620-2905. Reimbursement for services delivered under this subchapter will be the amounts listed in the fee schedule unless provided otherwise in this rule.~~ The provider

reimbursement rate for a covered service for Home and Community-Based Services for Adults with Severe Disabling Mental Illness, unless provided otherwise in this rule, is stated in the department's fee schedule as provided in ARM 37.85.105(6). These fees are calculated based on:

(a) the biennial legislative appropriation; and

(b) the estimated demand of covered services during the biennium.

(2) through (8) remain the same.

(9) No copayment is imposed on services provided through the program but ~~consumers~~ persons are responsible for copayment on other services reimbursed with Medicaid monies.

(10) Reimbursement is not available for the provision of services to other members of a person's household or family unless specifically provided for in these rules.

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

5. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (the department) is adopting New Rule I pertaining to the addition of a new service for Orientation and Mobility (O and M) to the existing Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services. New Rule II is also being proposed and will contain the fee incorporation by reference for fee schedules for the Addictive and Mental Disorders Division and the Developmental Services Division. These fee schedules are for non-Medicaid funded services.

The department is proposing to amend the following: ARM 37.40.705, 37.40.1105, 37.40.1303, 37.79.102, 37.79.304, 37.85.105, 37.85.212, 37.86.105, 37.86.205, 37.86.805, 37.86.1004, 37.86.1006, 37.86.1105, 37.86.1506, 37.86.1802, 37.86.1807, 37.86.2005, 37.86.2206, 37.86.2207, 37.86.2230, 37.86.2405, 37.86.2505, 37.86.2605, 37.86.3020, 37.86.3515, 37.86.4010, 37.86.4205 37.87.901, 37.87.1303, 37.87.1313, 37.87.1314, 37.87.1333, 37.87.2233, 37.88.907, 37.89.125, 37.89.523, and 37.90.408 pertaining to the implementation of new rates within the Montana Medicaid's fee schedules.

This proposed rulemaking continues the process of reorganizing all administrative rules containing information about the incorporation by reference of all Medicaid rates and fee schedules into one administrative rule. This rulemaking combines four of the department's division's administrative rules into one rule that will help providers of services to obtain information about the department's many fee schedules in one place. The four divisions whose rules are incorporated together are the Health Resources Division, Senior and Long Term Care Division, Addictive and Mental Disorders Division, and the Developmental Services Division. Each of the division's administrative rule changes are described below and broken down by each division. A fiscal impact is included with each of the division's statement of reasonable necessity.

The department is proposing to change the term "recipient" or "consumer" throughout these proposed rule amendments to "person" to be consistent with other department rules.

STATEMENT OF REASONABLE NECESSITY ORIENTATION AND MOBILITY SPECIALIST SERVICES

New Rule I

New Rule I is being proposed to add the services of an Orientation and Mobility Specialist Services to the list of services covered under EPSDT in accordance with 53-6-101(4)(q), MCA. A new fee schedule for Orientation and Mobility Specialist Services along with a provider manual for training and future reference has been developed. The department has determined such services to be necessary for blind and low-vision persons.

New Rule II

The department is proposing New Rule II to include those fee schedules that are for non-Medicaid services. Two fee schedules are being added for the Addictive and Mental Disorders Division and one for the Developmental Services Division.

ARM 37.86.2206

The department is amending this rule to include a service of the Orientation and Mobility Specialist Services with existing services made available to EPSDT clients.

ARM 37.86.2230

The department is amending this rule to include a service of the Orientation and Mobility Specialist with the existing services made available in the School-Based Health Related Services. Two new codes will be included in the School-Based Fee Schedule and the Orientation and Mobility Specialist service will be included in the School-Based Provider Manual along with others in Coverage of Specific Services.

There is no fiscal impact to the Montana Medicaid Program because Montana Medicaid would cover this service under EPSDT regulations as medically necessary.

The alternative to the proposed amendments would be to make no changes to the existing rules. The department recognizes Orientation and Mobility Specialist services are medically necessary and covered under EPSDT. These rules will enable the department to reimburse and track services once defined in rule.

STATEMENT OF REASONABLE NECESSITY HEALTH RESOURCES DIVISION

The Department of Public Health and Human Services (the department) is proposing amendments to ARM 37.86.3020, outpatient hospital services, regarding a 2% increase in Medicaid fees to providers. This increase is mandated by House Bill 2 (HB2) of the 63rd Montana Legislature. The proposed rule amendments also address a 2% decrease in Medicare funding as estimated by the Congressional Budget Office (CBO) due to the federal sequestration effective March 1, 2013. Many services provided through the Medicaid program utilize reimbursement methodology which is established by Medicare. Because Medicaid follows many of the Medicare fee schedules, this decrease in Medicare funding will have a negative effect upon reimbursement to Medicaid providers and the state Medicaid budget. This decrease in Medicare funding is not expected to impact services to Montana Medicaid members. In addition, language will be added incorporating fee schedules, dates, conversion factors, percentages, and rates for services provided through the Health Resources Division (HRD) under one reimbursement rule (ARM 37.85.105) rather than having separate reimbursement rules for each service. These services include outpatient hospital, physician, pharmacy, HMK, and acute services. It is necessary for the department to incorporate these services under one rule to organize and streamline the process of updating fee schedules, dates, conversion factors, percentages, and rates pertaining to each service as necessary.

STATEMENT OF REASONABLE NECESSITY – HEALTHY MONTANA KIDS (HMK)

The department incorporated by reference into Administrative Rules of Montana the HMK Evidence of Coverage effective October 1, 2012. The HMK Evidence of Coverage describes the health care benefits available to HMK coverage group enrollees. HMK is proposing to revise the effective date regarding the Evidence of Coverage referenced in ARM 37.79.304.

Out-of-state medical services for HMK members are provided through the third party administrator's (TPA) Blue Card Program, and the language for the Blue Card Program must be approved by the Blue Cross Blue Shield Association. HMK's TPA is Blue Cross Blue Shield of Montana (BCBSMT) and they are part of the BCBS Association.

Upon implementation of HMK (formerly CHIP) in 1999 the department purchased insurance policies for members through BCBSMT. The current language in the HMK Evidence of Coverage applies to a fully insured product.

Effective October 1, 2007, HMK transitioned from a fully insured product to a publicly funded product and Blue Card Program language in the HMK Evidence of Coverage has not been updated to address this change. BCBSMT requested updated Blue Card Program language in the HMK Evidence of Coverage.

In addition, HMK is proposing an update to information regarding the "Federal Poverty Level" (FPL) to include the current effective date and current reference to the federal register. This rule change is required by program policy to follow the

current version of the FPL guidelines when determining eligibility for program participants. The definition of FPL changes when FPL is updated in the Federal Register (usually on an annual basis). New 2013 FPL levels impact all applicants for Healthy Montana Kids because the designated income levels are higher than the previous year, thereby allowing more applicants access to coverage.

The following describes the purpose of the proposed rule amendments pertaining to HMK:

ARM 37.79.304

Regarding the Healthy Montana Kids Program, the effective date that references the program's Evidence of Coverage will be updated. This proposed change is necessary to align these administrative rules with current HMK policy.

ARM 37.79.102

The effective date for the FPL and the reference to the Federal Register will be updated. Since member eligibility is determined using the FPL as updated in the Federal Register, it is necessary to update the rule to reflect the most current FPL within the most current reference to the Federal Register. The proposed rule amendments regarding the Healthy Montana Kids Program will have no fiscal impact on members or providers.

STATEMENT OF REASONABLE NECESSITY – HOSPITAL SERVICES

The following describes the purpose of the proposed rule amendments pertaining to hospital services:

ARM 37.85.105

The effective date regarding the inpatient hospital fee schedule, inpatient hospital base rates, and the bundled composite rate for dialysis clinics will be revised to July 1, 2013. In addition, language will be added incorporating fee schedules, dates, conversion factors, percentages, and rates for services provided through the Health Resources Division (HRD) under one reimbursement rule, ARM 37.85.105. It is necessary for the department to incorporate these services under one rule to organize and streamline the process of updating fee schedules, dates, conversion factors, percentages, and rates pertaining to each service as necessary. The fiscal impact and number of providers affected can be found within the "fiscal impact" section of this document.

ARM 37.86.3020

The outpatient conversion factor regarding the ambulatory payment classifications (APC) fee schedule will be removed from the rule as well as the statewide average cost-to-charge ratio. Language will be added that indicates this conversion factor

and ratio is adopted and effective in ARM 37.85.105. This proposed change is necessary to organize the information deleted from ARM 37.86.3020 into one rule and to provide a reference to ARM 37.85.105 where this information can now be found. This is part of the department's continuing reorganization of its rules to make them easier to use.

ARM 37.86.4205

The effective date and bundled rate regarding dialysis clinics will be removed. Language will be added which indicates that the effective date and bundled rate is effective and provided in ARM 37.85.105. This proposed change is necessary to organize the information deleted from ARM 37.86.4205 into one rule and provide a reference to ARM 37.85.105 where this information can now be found.

STATEMENT OF REASONABLE NECESSITY – ACUTE SERVICES

The Acute Services Bureau is also proposing to add the ability to reimburse Orientation and Mobility (O and M) Specialists under the EPSDT program. Administrative rules for the O and M specialty establishing the service under EPSDT and school-based services have been included in this proposed rule.

The following describes the purpose of the proposed rule amendments pertaining to Acute Services:

ARM 37.85.105

The effective date regarding the acute services fee schedule will be revised to July 1, 2013. In addition, language will be added incorporating fee schedules, dates, conversion factors, percentages, and rates for services provided through the Health Resources Division (HRD) under one reimbursement rule, ARM 37.85.105. It is necessary for the department to incorporate these services under one rule to organize and streamline the process of updating fee schedules, dates, conversion factors, percentages, and rates pertaining to each service as necessary. The fiscal impact and number of providers affected can be found within the "fiscal impact" section of this document.

ARM 37.86.805

The department is amending this rule by removing the fee schedule date and directing the reader to ARM 37.85.105.

ARM 37.86.1004

The department is amending this rule by removing the date the Relative Values for Dentists (RVDs) is published and adding language that indicates this date is adopted and effective as provided at ARM 37.85.105. This amendment also removes the conversion factor used to determine the Medicaid payment amount for dental

services and adds language that indicates this conversion factor is adopted and effective as provided at ARM 37.85.105.

ARM 37.86.1006

The department is amending this rule by removing the effective date regarding the Dental and Denturist Program Provider Manual and adding language that indicates this date is adopted and effective as provided at ARM 37.85.105.

ARM 37.86.1105

The department is amending this rule by removing the dispensing fee for outpatient drugs in (b)(i) and (b)(ii) and adding language that indicates these fees are adopted and effective as provided at ARM 37.85.105. This amendment removes the dispensing fee for compound drugs and adds language that indicates prior authorization is required for compound drug dispensing fees over the minimum provided at ARM 37.85.105. This amendment also removes the dispensing fee for compound drugs and adds language that indicates these fees are adopted and effective as provided at ARM 37.85.105. New language has been added to address the vaccine administration fee and indicates these fees are adopted and effective as provided at ARM 37.85.105.

ARM 37.86.1506

The department is amending this rule by removing the date regarding the home infusion therapy services fee schedule and adds language that indicates this date is adopted and effective as provided at ARM 37.85.105.

ARM 37.86.1802

The department is amending this rule by removing the publish dates for the various Medicare local and national coverage determinations, supplier manuals, and policy articles and adds language that indicates these publication are adopted and effective as provided in ARM 37.85.105.

ARM 37.86.1807

The department is amending this rule by removing the date regarding the durable medical equipment and medical supplies fee schedule and adds language that indicates this date is adopted and effective as provided at ARM 37.85.105.

ARM 37.86.2005

The department is amending this rule by removing the percentage regarding reimbursement for allied services and adding language that indicates this percentage is adopted and effective as provided at ARM 37.85.105.

ARM 37.86.2207

The department is amending this rule by removing the dates regarding the department's private duty nursing services EPSDT fee schedule and the nutrition EPSDT fee schedule and add language that indicates these dates are adopted and effective as provided at ARM 37.85.105. Language will be added regarding a new orientation and mobility EPSDT fee schedule and language is added to indicate this fee schedule is adopted and effective as provided at ARM 37.85.105.

ARM 37.86.2405

The department is amending this rule by removing the date regarding the Personal and Commercial Transportation Fee Schedule and adding language that indicates this date is adopted and effective as provided at ARM 37.85.105.

ARM 37.86.2505

The department is amending this rule by removing the date regarding the Specialized Nonemergency Medical Transportation Services Fee Schedule and adds language that indicates this date is adopted and effective as provided at ARM 37.85.105.

ARM 37.86.2605

The department is amending this rule by removing the date regarding the ambulance fee schedule and adding language that indicates this date is adopted and effective as provided at ARM 37.85.105.

These changes are necessary to update the fee schedule dates in rule; to provide for the two percent provider rate increase appropriated in HB2 and update reimbursement rules to reflect current policy. In addition, federal sequestration will reduce Medicare funding by 2% as estimated by the Congressional Budget Office (CBO). The Medicaid Durable Medical Equipment Program reimburses providers 100% of the Medicare Region D allowable fee as stated in ARM 37.86.1807(3). Some Medicaid Durable Medical Equipment fees will be reduced as a result of the Medicare competitive bidding for diabetic supplies as authorized in Section 1847 of the Social Security Act and Section 636(b) of the American Taxpayer Relief Act of 2012 (ATRA).

Fiscal Impact

The estimated general fund cost to the Acute Services Bureau for the following rule changes are listed below for State Fiscal Year 2014:

ARM 37.86.805 Hearing Aid Services; $1,052
ARM 37.86.1004 and 37.86.1006 Dental Services; $153,684
ARM 37.86.1105 Outpatient Drugs; $38,739

ARM 37.86.1506 Home Infusion Therapy Services; $5,129
ARM 37.86.1807 Durable Medical Equipment; ($101,235) Federal Sequestration
ARM 37.86.1807 Durable Medical Equipment; ($26,428) competitive bidding for diabetic supplies
ARM 37.86.2207 EPSDT: Private Duty Nursing; $27,742
ARM 37.86.2207 EPSDT: Nutrition; $72
ARM 37.86.2405 Transportation and Per Diem; $19,822
ARM 37.86.2505 Specialized Nonemergency Transportation; $356
ARM 37.86.2605 Ambulance Services; $17,961
ARM 37.86.2005 Optometric (costs are included in 37.85.212)

The changes to ARM 37.86.2207 EPSDT O & M Services are expected to have no fiscal impact to the department and no material effects on Medicaid persons or Medicaid providers.

Additional information regarding the fiscal impact and number of providers affected can be found within the "fiscal impact" section of this document.

STATEMENT OF REASONABLE NECESSITY – PHYSICIAN SERVICES

The Department of Public Health and Human Services (the department) is proposing amendments to ARM 37.85.212, 37.86.105, and 37.86.205. These rules implement Montana Medicaid's resource-based relative value scale (RBRVS) reimbursement method for specified provider types. Montana Medicaid uses the RBRVS rate system to calculate the fees Montana Medicaid pays to 20 types of health care professionals.

The Montana Medicaid Program is administered by the department to provide health care to Montana's qualified low income and disabled residents (hereinafter "Medicaid members"). It is a public program paid for with state and federal funds appropriated to pay health care providers (hereinafter "Medicaid providers") for the covered medical services they deliver to Medicaid members. The Legislature delegates authority to the department to set the reimbursement rates Montana pays Medicaid providers for Medicaid covered services. See 53-6-101(8) and 53-6-113, MCA.

RBRVS is used nationwide by most health plans, including Medicare and Medicaid. The relative value unit component of RBRVS is revised annually by the Centers for Medicare and Medicaid Services (CMS) and the American Medical Association. The department annually proposes to amend ARM 37.85.212(1)(i) to adopt current relative value units (RVUs). An RVU is a numerical value assigned to each medical procedure. RVUs are based on physician work, practice expense, and malpractice insurance expenses and express the relative effort and expense expended to provide one procedure compared with another. RVUs are added for new procedures and the RVUs of particular procedures may increase or decrease from year to year.

The department annually calculates conversion factors for physician services, allied services, mental health services, and anesthesia services. These conversion factors are calculated by dividing the Montana Legislature's appropriation for Medicaid member's health care during the upcoming State Fiscal Year (SFY) by the estimated total units of health care, expressed as total RVUs paid, to be provided during the upcoming SFY. The resulting quotient is the conversion factor. The RVU for a procedure multiplied by the conversion factor is the fee paid for the procedure. The conversion factor for licensed physicians is further set by 53-6-124 through 53-6-127, MCA, and the fees paid are funded by legislative appropriations.

The proposed rule amendments address a 2% decrease in Medicare funding as estimated by the Congressional Budget Office (CBO) due to the federal sequestration effective March 1, 2013 for a limited number of fees paid to physicians and mid-level providers.

The physician services conversion factor will increase 3.7% due to the increase in the consumer price index for medical services as directed by 53-6-125, MCA and an additional increase of 2% as directed by HB2. HB2 also directs a 2% provider increase for allied services, mental health services, and anesthesia services. The conversion factor amounts for physician services, allied services, mental health services, and anesthesia services will be determined by modeling data.

The "by-report" percentage is determined by dividing the amount that is reimbursed for services by the amount billed for the services. For SFY 2014 the department will determine the by-report percentage by modeling.

ARM 37.85.105

Proposed amendments to this rule contain the Resource-Based Relative Value Scale (RBRVS) conversion factors and by-report percentage. Modeling has not concluded to determine SFY 2014 amounts. For purposes of this notice we have included rates presently in effect for SFY 2013. The department will continue modeling and file an amended proposed notice by May 13, 2013 with proposed amounts for SFY 2014 that will be effective July 1, 2013. Interested parties will have an opportunity to comment on the proposed amounts for SFY 2014.

ARM 37.86.105(4) addresses the reimbursement of physician administered drugs. The department follows the reimbursement methodology used by Medicare for many physician administered drugs. The amendment allows the department to update the fees for these drugs by using the most current information provided by Medicare.

The Affordable Care Act requires state Medicaid agencies to reimburse birth attendants separately. The department adopted rule information at ARM 37.86.1201 to define birth attendants effective January 1, 2013. The RBRVS rule will be amended to add them to the list of providers reimbursed using the RBRVS reimbursement methodology.

Some, but not all, modifier information was housed within ARM 37.85.212. All modifier information is housed in the physician provider manual. Modifier information in rule will not be maintained within ARM 37.85.212 and will therefore be removed.

Citation, date, and fee schedule information formerly contained in ARM 37.85.212, 37.86.105, and 37.86.205 will be moved to ARM 37.85.105.

Fiscal Impact

HOUSE BILL (HB) 2

The proposed amendments as mandated in House Bill 2 (HB2) to the above-mentioned rules regarding services provided through the Health Resources Division will increase the Medicaid budget by 2% for State Fiscal Year (SFY) 2014. The following amounts are the budget figures reflecting this 2% increase:

	SFY 2014
Acute Services	$822,000
Hospital Services	$2,221,081
Clinic Services	$42,529
Indian Health Pharmacy	$3,780
Physician/Mid-level Services	$993,587
Breast and Cervical	$90,590
Acute Pharmacy	$114,855
Totals	$4,650,249

This increase in Medicaid funding will have a positive impact upon 372 hospitals; 36 hearing aid dispensers; 265 pharmacy providers; 11 home infusion therapy providers; 169 optometric providers; 12 private-duty nursing providers; 7 nutrition providers; 229 school-based services providers; 17 transportation providers; 107 ambulance providers; 379 dental providers; 8,337 physicians; 2,045 mid-level practitioners; 65 podiatrists; 43 public health clinics; 19 Independent Diagnostic Testing Facilities(IDTF) providers; 116 lab and x-ray providers; and 14 family planning clinics. This increase in funding will aide in providing Medicaid services for 108,572 members within Montana.

MEDICARE BUDGET REDUCTIONS

The following Medicaid budget amounts reflect the impact of a 2% reduction in Medicare fees for SFY 2014 and SFY 2015 should the federal sequestration remain in effect:

	SFY 2014	SFY 2015
Hospital Outpatient Services	($777,087)	($816,796)
Physician/Mid-level Services	($164,240)	($167,525)
Acute Services	($101,359)	($101,509)
Totals	($1,042,686)	($1,085,830)

This decrease in Medicare funding due to the federal sequestration will have a negative effect upon the Medicaid budget and may be adverse to 372 outpatient hospital providers; 8,337 physicians; 2,045 mid-level providers; 526 durable medical equipment providers; 36 hearing aid dispensers; 178 optometrists; and 26 optician providers. Services to Montana Medicaid members will not be affected.

MEDICARE FEE REDUCTIONS (Competitive Bidding)

The following Medicaid budget amounts reflect the impact of the reduction in Medicare fees due to the Medicare competitive bidding for diabetic supplies for state fiscal year (SFY) 2014 and (SFY) 2015:

	SFY 2014
Durable Medical Equipment Program	($26,428)

This decrease in fees for diabetic supplies due to the Medicare competitive bidding for diabetic supplies will have a negative effect upon the Medicaid budget and may be adverse to 526 durable medical equipment providers. This decrease in Medicare funding is not expected to impact services to Montana Medicaid members.

STATEMENT OF REASONABLE NECESSITY- ADDICTIVE AND MENTAL DISORDERS DIVISION

The Department of Public Health and Human Services (the department) is proposing amendments to ARM 37.86.3515, 37.88.907, 37.89.125, 37.89.523, 37.90.408, and 37.86.4010, regarding a 2% increase in Medicaid fees to providers. HB2 of the 2013 Montana Legislature mandates this increase.

In addition, language is added to incorporate fee schedules and dates for services provided through the Addictive and Mental Disorders Division (AMDD) under one reimbursement rule (ARM 37.85.105) rather than having separate references to fee schedules. It is necessary for the department to incorporate these services under one rule to organize and streamline the process of updating fee schedules, dates and rates pertaining to each service as necessary.

ARM 37.86.3515

The department is proposing to remove the date of the fee schedule and add a reference to the fee schedule in ARM 37.85.105.

ARM 37.88.907

The department is proposing to remove the date of the fee schedule and add a reference to the fee schedule in ARM 37.85.105.

ARM 37.89.125

The department is proposing to add language incorporating and adoption of the fee schedule in NEW RULE II and adding language for the calculation of fee methodology.

ARM 37.89.523

The department is proposing to remove the date of fee schedule and add language to adopt the fee schedule in ARM 37.85.105 and adding language on the calculation of fee methodology.

ARM 37.90.408

The department is proposing to remove date of the fee schedule and add language incorporating and adoption of the fee schedule in ARM 37.85.105 and adding language on the calculation of fee methodology.

ARM 37.86.4010

The department is proposing to add language incorporating the fee schedule under ARM 37.85.105.

Fiscal Impact

The proposed amendments as mandated in HB2 to the above mentioned rules regarding services provided through the Addictive and Mental Disorders Division will increase the Medicaid and Mental Health Services Plan (MHSP) budget by 2% for FY 2014. The following are the budget figures reflecting this 2% increase:

	FY 2014
Mental Health Centers	$384,140
Chemical Dependency Case Management	$2,961
Mental Health Case Management	$182,371
SDMI HCBS Waiver Program	$75,600
72-Hour Presumptive	$28,827
Mental Health Services Plan (MHSP)	$133,789
Total	$807,688

The increase in funding will have a positive impact on the providers of mental health centers, mental health waiver providers, mental health and chemical dependency providers, MHSP, and 72-Hour Presumptive Crisis Stabilization providers.

STATEMENT OF REASONABLE NECESSITY- SENIOR AND LONG-TERM CARE DIVISION

ARM 37.40.1105, 37.40.1303, and 37.85.105

These amendments to the existing Personal Assistance Service (PAS) and Self-Directed Personal Assistance Service (SDPAS) reimbursement rules are necessary to remove the current reimbursement rates listed in ARM 37.40.1105 and 37.40.1303 and incorporate them by reference through a fee schedule dated July 1, 2013, for PAS and SDPAS reimbursement in ARM 37.85.105. The PAS and SDPAS rules will no longer list a specific dollar amount or rate of reimbursement; rather, it will reference the fee schedule that will be published on the department's web site, effective July1, 2013. This rule change will make it more efficient to update future rules by the incorporation of the fee schedule when changes occur in funding levels appropriated for these programs.

Additions will also be made to the rule to define services included in the reimbursement for PAS and SDPAS program, such as, mileage, program oversight, and medical escort.

The Department of Public Health and Human Services (the department) is proposing amendments to ARM 37.40.1105, 37.40.1303, and 37.85.105 pertaining to reimbursement for Medicaid PAS and SDPAS providers. The fee schedule will be updated to implement the anticipated 2% provider rate increase in these Medicaid funded programs effective July 1, 2013 for fiscal year 2014. This increase is mandated by HB2 of the 63rd Montana Legislature.

The department does not have available, at this time, all of the information that will be necessary to establish final rates for PAS and SDPAS providers effective July 1, 2013. The final rates that will be set will be dependent on the final funding levels authorized by the 63rd Legislature, as well as other factors.

The department will provide fee schedules to all providers in advance of the rule for verification purposes and in order to facilitate comments when rate information becomes available. These schedules will incorporate legislatively appropriated funding levels currently estimated at a 2% provider rate increase.

The department is revising its process of changing provider reimbursement rates in administrative rule. It intends to adopt fee schedules effective as of a stated date in one rule. This is not a substantive change in the rate-setting process. It is a procedural change to simplify notices of rate changes and to compile a centralized list of fees schedules that a reader can reference. This change is reasonably necessary to improve public access to provider rates, make the Medicaid rate-setting process and the rates established by rule easier to understand, and reduce the costs associated with publication of revised provider rates. The department has considered the alternative of continuing the current process for publication of rate

changes and intends to evaluate the efficacy of the current process and this change before applying this revision to all rate rules.

The department has determined these rates are consistent with efficiency, economy, and quality of care. These rates are sufficient to enlist enough providers so that care and services under the Montana Medicaid program are available to the extent that such care and services are available to the general population in the geographic area.

The department administers the Montana Medicaid program to provide health care to Montana's qualified low income and disabled residents. It is a public program paid for with state and federal funds appropriated to pay health care providers for the covered medical services they deliver to Medicaid clients. The Legislature delegates authority to the department to set the reimbursement rates Montana pays Medicaid providers for Medicaid clients' covered services. See 53-6-106(8) and 53-5-113, MCA.

Fiscal Impact

The proposed amendments as mandated in HB2 to the above mentioned rules regarding services provided through the Senior and Long Term Care Division will increase the provider rates by 2%. The Legislature in HB2 has appropriated $737,268 in total funds for SFY 2014, effective July 1, 2013 for these rate increases. This funding will impact all Medicaid personal assistance and self-directed personal assistance persons and providers. The anticipated number of persons who will receive personal assistance and self-directed personal assistance services in FY 2014 is approximately 3,500.

ARM 37.85.105

The Department of Public Health and Human Services (the department) is proposing amendments to ARM 37.85.105 pertaining to reimbursement for Medicaid home and community-based services (HCBS) for the elderly and physically disabled persons. The department has revised its process of changing provider reimbursement rates in administrative rule for the HCBS waiver services. It intends to adopt fee schedules effective as of a stated date in one rule. The purpose of the proposed rule amendments is to update the effective date of the fee schedule that is published on the department's web site, effective July 1, 2013 to take into consideration the provider rate increase funding, expected to be implemented for SFY 2014. The fee schedule will be updated to implement the anticipated 2% provider rate increase in this Medicaid funded program effective July 1, 2013. This increase is mandated by HB2 of the 63rd Montana Legislature.

The department does not have available, at this time, all of the information that will be necessary to establish final payment rates for home and community-based waiver services providers effective July 1, 2013. The final rates that will be set will be dependent on the funding levels authorized by the 63rd Legislature, as well as other factors. The department will provide fee schedules to all providers in advance

of the rule for verification purposes and in order to facilitate comments when rate information becomes available. These schedules will incorporate legislatively appropriated funding levels currently estimated at a 2% provider rate increase.

The department has determined these rates are consistent with efficiency, economy, and quality of care. These rates are sufficient to enlist enough providers so that care and services under the Montana Medicaid Program are available to the extent that such care and services are available to the general population in the geographic area.

The department administers the Montana Medicaid Program to provide health care to Montana's qualified low income and disabled residents. It is a public program paid for with state and federal funds appropriated to pay health care providers for the covered medical services they deliver to Medicaid clients. The Legislature delegates authority to the department to set the reimbursement rates Montana pays Medicaid providers for Medicaid clients' covered services. See 53-6-106(8) and 53-5-113, MCA.

Fiscal Impact

The proposed amendments as mandated in HB2 to the above-mentioned rules regarding services provided through the Senior and Long Term Care Division will increase the provider rates by 2%. The Legislature in HB 2 has appropriated $731,529 in total funds for SFY 2014, effective July 1, 2013 for these rate increases. Persons and providers will be impacted by the Medicaid home and community-based services for elderly and physically disabled persons waiver. The anticipated number of persons who will receive waiver services in FY 2014 is approximately 2,600.

The proposed rule change for Home Health Services is for the purpose of removing the current reimbursement rates listed in ARM 37.40.705 for Home Health Services and incorporating by reference a fee schedule dated July 1, 2013 for Home Health Services Reimbursement into ARM 37.85.105. The home health rule will no longer list a specific dollar amount or rate of reimbursement; rather, it will reference the fee schedule that will be adopted by the department and published on the department's web site, effective July 1, 2013. This incorporation by reference will make it more efficient to update future rules when changes occur in funding levels appropriated for this program.

ARM 37.40.705 and 37.85.105

The Department of Public Health and Human Services (the department) is proposing amendments to ARM 37.40.705 and 37.85.105 pertaining to reimbursement for Medicaid home health services. The purpose of the proposed rule amendments is to update and set provider rates to take into consideration the provider rate increase funding, expected to be implemented July 1, 2013. The fee schedule will be updated to implement the anticipated 2% provider rate increase in this Medicaid funded

program effective July 1, 2013 for FY 2014. This increase is mandated by HB2 of the 63rd Montana Legislature.

The department does not have available, at this time, all of the information that will be necessary to establish final payment rates for home health providers effective July 1, 2013. The final rates that will be set will be dependent on the funding levels authorized by the 63rd Legislature, as well as other factors. The department will provide fee schedules to all providers in advance of the rule for verification purposes and in order to facilitate comments when rate information becomes available. These schedules will incorporate legislatively appropriated funding levels currently estimated at a 2% provider rate increase.

The department is revising its process of changing provider reimbursement rates in administrative rule. It intends to adopt fee schedules effective as of a stated date in one rule. This is not a substantive change in the rate-setting process. It is a procedural change to simplify notices of rate changes and to compile a centralized list of fees schedules that a reader can reference. This change is reasonably necessary to improve public access to provider rates, make the Medicaid rate-setting process and the rates established by rule easier to understand, and reduce the costs associated with publication of revised provider rates. The department has considered the alternative of continuing the current process for publication of rate changes and intends to evaluate the efficacy of the current process and this change before applying this revision to all rate rules.

The department has determined these rates are consistent with efficiency, economy, and quality of care. These rates are sufficient to enlist enough providers so that care and services under the Montana Medicaid Program are available to the extent that such care and services are available to the general population in the geographic area.

The department administers the Montana Medicaid Program to provide health care to Montana's qualified low income and disabled residents. It is a public assistance program paid for with state and federal funds appropriated to pay health care providers for the covered medical services they deliver to Medicaid clients. The Legislature delegates authority to the department to set the reimbursement rates Montana pays Medicaid providers for Medicaid clients' covered services. See 53-6-106(8) and 53-5-113, MCA.

Fiscal Impact

The proposed amendments as mandated in HB2 to the above-mentioned rules regarding services provided through the Senior and Long Term Care Division will increase the provider rates by 2%. The Legislature in HB2 has appropriated $6,525 in total funds for SFY 2014, effective July 1, 2013 for these rate increases. This funding will impact all Medicaid home health persons and home health providers who utilize this service. The anticipated number of persons who will receive home health services in FY 2014 is approximately 400.

STATEMENT OF REASONABLE NECESSITY- DEVELOPMENTAL SERVICES DIVISION - CHILDREN'S MENTAL HEALTH BUREAU

The Department of Public Health and Human Services (the department) is proposing to amend ARM 37.86.2206, 37.86.2207, 37.87.901, 37.87.1303, 37.87.1313, 37.87.1314, 37.87.1333, and 37.87.2233 regarding a 2% increase in Medicaid fees to providers. HB2 of the 2013 Montana Legislature mandates this increase.

In addition, language is deleted from ARM 37.87.901 and added to ARM 37.85.105, which incorporates the Medicaid Youth Mental Health Services Fee Schedule dated July 1, 2013, consistent with other Medicaid programs. It is necessary for the department to incorporate these services under one rule to organize and streamline the process of updating fee schedules, dates, and rates pertaining to each service as necessary.

ARM 37.87.105

The department is proposing to amend this rule for youth services. The policy adjuster for psychological testing codes is 145%. This change is necessary to be consistent with the current payment system. The psychological policy adjuster has been in effect since SFY 2010.

ARM 37.87.901

The department is proposing to amend this rule by deleting language from ARM 37.87.901 and adding it to ARM 37.85.105 which incorporates the Medicaid Youth Mental Health Services Fee Schedule dated July 1, 2013 so it will be consistent with other Medicaid programs. It is necessary for the department to incorporate these services under one rule to organize and streamline the process of updating fee schedules, dates, and rates pertaining to each service as necessary.

ARM 37.86.2206

The department is proposing to amend this rule to add mental health services for youth and refers to the children's mental health section of rule for requirements. Prior authorization requirements are already referenced in ARM Title 37, chapter 87 and were removed from ARM 37.87.2206 which contained inaccurate or incomplete information regarding children's mental health services. This is necessary to clarify children's mental health services covered by Medicaid.

ARM 37.86.2207

The Department of Public Health and Human Services (the department) is proposing to amend this rule. The proposed changes add a reference to the department fee schedule found in ARM 37.85.105 to be consistent with other Medicaid programs.

ARM 37.87.2233

The Department of Public Health and Human Services (the department) is proposing to amend this rule to add a reference to the new fee schedule rule, NEW RULE II, which contains non-Medicaid fee schedules to be consistent with other department non-Medicaid programs.

ARM 37.87.1303 and 37.87.1333

The Children's Mental Health Bureau received an opportunity to continue to provide the 1915(c) Home and Community-Based (HCBS) Psychiatric Residential Treatment Facility (PRTF) Waiver, effective October 1, 2012, for children who were already enrolled in the HCBS PRTF waiver that ended September 30, 2012. The department is proposing to amend the rule to relocate the adoption and incorporation of the 1915(c) HCBS Bridge Waiver for Youth with Serious Emotional Disturbance Policy Manual, dated October 1, 2012, from ARM 37.87.1333 to ARM 37.87.1303.

The proposed rule change for the 1915(c) HCBS Bridge Waiver for Youth with Serious Emotional Disturbance is also for the purpose of removing the current fee schedule in Appendix A of the manual and renaming the fee schedule the 1915(c) HCBS Bridge Waiver for Youth with Serious Emotional Disturbance Fee Schedule and incorporating it by reference, dated July 1, 2013, into ARM 37.85.105. The 1915(c) HCBS Bridge Waiver rule and manual will no longer list a specific dollar amount or rate of reimbursement; rather, they will reference the fee schedule that will be adopted by the department and published on the department's web site, effective July 1, 2013. The proposed fee schedule will take into consideration the anticipated provider rate increase funding expected to be implemented for State Fiscal Year (SFY) 2014, mandated by HB2 by the 63rd Montana Legislature. This incorporation by reference will make it more efficient to update future rules when changes occur in funding levels appropriated for this program.

ARM 37.87.1313 and 37.87.1314

Children's Mental Health Bureau submitted a 1915(i) Home and Community-Based (HCBS) state plan amendment which became effective January 1, 2013. The department is proposing to amend the rule language in order to relocate the adoption and incorporation of the 1915(i) HCBS State Plan Program for Youth with Serious Emotional Disturbance Policy Manual, dated January 1, 2013 (manual) from ARM 37.87.1314 to ARM 37.87.1313.

The proposed rule change for the 1915(i) HCBS State Plan Program for Youth with Serious Emotional Disturbance is also for the purpose of removing the current fee schedule in Appendix A of the manual and renaming the fee schedule the 1915(i) HCBS State Plan Program for Youth with Serious Emotional Disturbance Fee Schedule and incorporating it by reference dated July 1, 2013 into ARM 37.85.105. The 1915(i) HCBS State Plan Program rule and manual will no longer list a specific

dollar amount or rate of reimbursement; rather, they will reference the fee schedule that will be adopted by the department and published on the department's web site, effective July 1, 2013. The proposed fee schedule will take into consideration the anticipated 2% provider rate increase funding, expected to be implemented for state fiscal year 2014, mandated by HB2 of the 63rd Montana Legislature. This incorporation by reference will make it more efficient to update future rules when changes occur in funding levels appropriated for this program.

Fiscal Impact

The proposed amendments as mandated in HB2 to the above proposed rules regarding services provided through the Children's Mental Health Bureau will increase the provider rates. The Legislature in HB2 has appropriated $1,857,927 in total funds for SFY 2014, effective July 1, 2013. This funding will impact about 14,000 youth served by children's mental health Medicaid.

6. The department intends to adopt these rules effective July 1, 2013.

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: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., May 23, 2013.

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
John Koch
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State April 15, 2013.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 2.59.302 pertaining to schedule of charges for consumer loans	)))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On February 28, 2013, the Department of Administration published MAR Notice No. 2-59-476 pertaining to the proposed amendment of the above-stated rule at page 235 of the 2013 Montana Administrative Register, Issue Number 4.

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

3. No comments or testimony were received.

By: /s/ Sheila Hogan
Sheila Hogan, Director
Department of Administration

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

Certified to the Secretary of State April 15, 2013.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 2.59.104 pertaining to semiannual assessment for banks	)))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On February 28, 2013, the Department of Administration published MAR Notice No. 2-59-479 pertaining to the proposed amendment of the above-stated rule at page 241 of the 2013 Montana Administrative Register, Issue Number 4.

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

3. The department has thoroughly considered the comment received. A summary of the comment received and the department's response are as follows:

COMMENT 1: The Montana Independent Bankers Association (MIB) is a trade association of Montana's independent bankers. The MIB commented that it strongly supported the 2012 amendment to this same administrative rule made in MAR Notice Number 2-59-470 published on March 8, 2012, at page 460. At that time, it urged the department to keep the amendment in place as long as it was economically feasible to do so. It commented that it supports the current proposed amendment to reduce the bank assessments until October 1, 2013.

RESPONSE 1: The department thanks the MIB for its support of this amendment.

By: /s/ Sheila Hogan
Sheila Hogan, Director
Department of Administration

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

Certified to the Secretary of State April 15, 2013.

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 2.60.203 pertaining to application procedure for a certificate of authorization for a state-chartered bank	))))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On February 28, 2013, the Department of Administration published MAR Notice No. 2-60-475 pertaining to the proposed amendment of the above-stated rule at page 244 of the 2013 Montana Administrative Register, Issue Number 4.

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

3. The department has thoroughly considered the comment received. A summary of the comment received and the department's response are as follows:

COMMENT 1: The Montana Independent Bankers Association (MIB) is a trade association made up of Montana's independent bankers. The MIB commented that the proposed amendment appears necessary to harmonize the existing rule with the updated and presently controlling Interagency Charter and Federal Deposit Insurance Application and Interagency Biographical and Financial Report forms. Since the rule change is administrative in nature and necessary, the MIB supports the amendment to ARM 2.60.203.

RESPONSE 1: The department thanks the MIB for their support of this amendment.

By: /s/ Sheila Hogan
Sheila Hogan, Director
Department of Administration

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

Certified to the Secretary of State April 15, 2013.

BEFORE THE COMMISSIONER OF INSURANCE
MONTANA STATE AUDITOR

In the matter of the amendment of ARM 6.6.2403, pertaining to Group Coordination of Benefits	)))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On November 23, 2012, the Commissioner of Securities and Insurance, Montana State Auditor, published MAR Notice No. 6-200 pertaining to the amendment of the above-stated rule at page 2296 of the Montana Administrative Register, issue number 22.

2. No comments or testimony were received.

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

/s/ Brett O'Neil
Brett O'Neil
Rule Reviewer

/s/ Jesse Laslovich
Jesse Laslovich
Chief Legal Counsel

Certified to the Secretary of State April 15, 2013.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 17.85.103, 17.85.105, 17.85.106, 17.85.110, 17.85.111, 17.85.112, 17.85.113, 17.85.114, 17.85.115 pertaining to definitions, eligible projects, eligible applicants, application procedure, application evaluation procedure, environmental review and compliance with applicable state law, applications and results public, loan terms and conditions and reports and accounting	)	NOTICE OF AMENDMENT (ALTERNATIVE ENERGY REVOLVING LOAN PROGRAM)

TO: All Concerned Persons

1. On January 31, 2013, the Department of Environmental Quality published MAR Notice No. 17-344 regarding a notice of proposed amendment (no public hearing contemplated) of the above-stated rules at page 92, 2013 Montana Administrative Register, issue number 2.

2. The department has amended the rules exactly as proposed.

3. No public comments or testimony were received.

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL QUALITY

/s/ John F. North
JOHN F. NORTH
Rule Reviewer

By: */s/ Tracy Stone-Manning*
TRACY STONE-MANNING, DIRECTOR

Certified to the Secretary of State, April 15, 2013.

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

In the matter of the amendment of ARM 24.101.413 renewal dates and requirements, 24.171.401 fees, 24.171.408 outfitter records, 24.171.701 NCHU categories, transfers, and records, 24.171.2101 renewals, the adoption of NEW RULE I incomplete outfitter and guide license applications, and the repeal of 24.171.409 guide to hunter ratio and 24.171.605 provisional guide license	))))))))))	NOTICE OF AMENDMENT, ADOPTION, AND REPEAL

TO: All Concerned Persons

1. On October 25, 2012, the Department of Labor and Industry (department) and the Board of Outfitters (board) published MAR notice no. 24-171-32 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 2107 of the 2012 Montana Administrative Register, issue no. 20. A public hearing was scheduled in the notice to be held on November 19, 2012, in Helena.

2. It was subsequently discovered that an error had occurred and the proposal notice had not been sent to all interested persons as required by the Montana Administrative Procedure Act. Therefore, the department and the board published an amended notice of public hearing on the proposed amendment, adoption, and repeal on November 23, 2012, at page 2304 of the 2012 Montana Administrative Register, issue no. 22.

3. On December 18, 2012, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. Several comments were received by the December 26, 2012, deadline.

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

COMMENT 1: Two commenters opposed the amendments to ARM 24.171.2101 on tally sheets, stating that the amendments were offered with the assumption that they would be replaced by the statistical analysis of data submitted via online logs. Without online logs, the tally sheets are still needed to provide important data in a usable form.

COMMENT 2: One commenter asserted that the justification for removing the tally sheets, as provided in the reasonable necessity statement, did not accurately reflect

the board's intent, as expressed in the board motion when the proposed amendments were first approved by the board.

RESPONSES 1 AND 2: The board agrees that these proposed changes are premature and is therefore not amending ARM 24.171.2101 at this time.

COMMENT 3: One commenter supported the proposed rule changes in their entirety, and specifically commented that the amendments would help reduce costs by eliminating unnecessary administrative requirements.

RESPONSE 3: The board appreciates all comments received in the rulemaking process.

5. The department has amended ARM 24.101.413 exactly as proposed.

6. The board has amended ARM 24.171.401, 24.171.408, and 24.171.701 exactly as proposed.

7. The board has adopted NEW RULE I (24.171.508) exactly as proposed.

8. The board has repealed ARM 24.171.409 and 24.171.605 exactly as proposed.

9. The board did not amend ARM 24.171.2101 as proposed.

BOARD OF OUTFITTERS
ROBIN CUNNINGHAM, CHAIRPERSON

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

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

Certified to the Secretary of State April 15, 2013

BEFORE THE BOARD OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of ARM 24.183.1001 form of corner records, 24.183.1104 uniform standards for certificates of survey, and 24.183.1107 uniform standards for final subdivision plats	))))))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On September 6, 2012, the Board of Professional Engineers and Professional Land Surveyors (board) published MAR notice no. 24-183-39 regarding the public hearing on the proposed amendment of the above-stated rules, at page 1716 of the 2012 Montana Administrative Register, issue no. 17. A public hearing was scheduled in the notice and held on September 27, 2012, in Helena.

2. It was subsequently discovered that an error had occurred and the proposal notice had not been sent to all interested persons as required by the Montana Administrative Procedure Act. Therefore, on October 25, 2012, the board published an amended notice of public hearing on the proposed amendment for MAR notice no. 24-183-39 at page 2113 of the 2012 Montana Administrative Register, issue no. 20.

3. On November 19, 2012, a second public hearing was held on the proposed amendment of the above-stated rules in Helena. Several comments were received by the November 27, 2012, deadline.

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

Comments 1 through 16 pertain to ARM 24.183.1104:

COMMENT 1: One commenter stated that because each county has its own records and filing requirements, it is necessary to add a sentence in (1)(a) which prescribes what the minimum margins of a certificate of survey must be, or to defer to the requirements of the filing office.

RESPONSE 1: The board agrees with the comment and is amending (1)(a) accordingly.

COMMENT 2: One commenter suggested that the board strike the addition of the landowner's name on the certificate of survey in ARM 24.183.1104(1)(d)(ii), because it would add cost to the individual paying for the survey.

RESPONSE 2: Noting that it is the duty of the land surveyor to get the permission of the landowner to survey, the board is amending the section exactly as proposed.

COMMENT 3: One commenter suggested that "(1)(c)" should be stricken after "ARM 24.183.1101" in (1)(d)(vi), because this rule does not apply exclusively to that one section.

RESPONSE 3: The board agrees with the comment and is amending (1)(d)(vi) accordingly.

COMMENT 4: One commenter suggested that (1)(d)(vi)(A) should provide an end-date by which monuments must be set, and that date should coincide with the date provided in ARM 24.183.1101(1)(d).

RESPONSE 4: The board agrees with the comment and is amending (1)(d)(vi)(A) accordingly.

COMMENT 5: One commenter suggested that the word "that" before "was used" and "a" before "control" in (1)(d)(vii) should be stricken.

RESPONSE 5: The board agrees with the comment and is amending (1)(d)(vii) accordingly.

COMMENT 6: One commenter stated that "nontangent" appearing twice in (1)(d)(x) should be hyphenated.

RESPONSE 6: The board agrees with the comment and is amending (1)(d)(x) accordingly.

COMMENT 7: Two commenters commented on the amendments to (1)(d)(x). One stated the rule is fine as it is and the other suggested more information is needed on curve data.

RESPONSE 7: The proposed amendments to this section are meant to clarify the minimum requirements for curve data, and the board notes that the land surveyor may calculate and include additional data if desired. The board is not amending this section further.

COMMENT 8: One commenter suggested that the phrase "for each line and curve" should be inserted in (1)(d)(xii) to clarify the record measurement reference.

RESPONSE 8: The board agrees with the comment and is amending (1)(d)(xii) accordingly.

COMMENT 9: One commenter suggested that (1)(d)(xiii) should be reformatted to add (A) and renumber (A), (B), (C), (D), and (E) to (I), (II), (III), (IV), and (V), adding

"or" after (IV) and a period after (V). Also, (F) and (G) should be renumbered (B) and (C).

RESPONSE 9: The board agrees with the comment and is reformatting and renumbering (1)(d)(xiii) accordingly.

COMMENT 10: One commenter stated that the first word in (1)(d)(xiii)(B) should be changed from "If" to "When" for clarity.

RESPONSE 10: The board agrees with the comment and is amending (1)(d)(xiii)(B) accordingly.

COMMENT 11: One commenter suggested adding language to allow the use of "POB" as an alternative abbreviation for "point of beginning" in (1)(d)(xiii)(B).

RESPONSE 11: The board agrees with the comment and is amending (1)(d)(xiii)(B) accordingly.

COMMENT 12: Several commenters remarked "that act" in (1)(d)(xvi) should be changed to "the Act."

RESPONSE 12: The board agrees with the comment and is amending (1)(d)(xvi) accordingly.

COMMENT 13: One commenter stated that the word "a" before "subdivision" in (1)(f)(vii) should be stricken.

RESPONSE 13: The board agrees with the comment and is amending (1)(f)(vii) accordingly.

COMMENT 14: Several commenters suggested that "act" in (1)(h) should remain uppercase.

RESPONSE 14: The board agrees with the comment and is amending (1)(h) accordingly.

COMMENT 15: One commenter asserted that the word "as" before "to identify" in (1)(h) should be stricken.

RESPONSE 15: The board agrees with the comment and is amending (1)(h) accordingly.

COMMENT 16: Several commenters suggested placing or striking commas in several areas throughout the rule to enhance clarity and meaning.

RESPONSE 16: The board agrees with the comment and is amending the rule accordingly.

Comments 17 through 34 pertain to ARM 24.183.1107:

COMMENT 17: Several commenters asserted that "Conditions of Approval" is a term of art, and should therefore be capitalized throughout this rule.

RESPONSE 17: The board agrees with the comment and is amending this rule accordingly.

COMMENT 18: One commenter suggested that because each county has its own records and filing requirements, it is necessary to add a sentence in (2)(a) which prescribes what the minimum margins of a plat must be or to defer to the requirements of the filing office.

RESPONSE 18: The board agrees with the comment and is amending (2)(a) accordingly.

COMMENT 19: One commenter stated that "(1)(c)" should be stricken after "ARM 24.183.1101" in (2)(e)(v), because this rule does not apply exclusively to that one section.

RESPONSE 19: The board agrees with the comment and is amending (2)(e)(v) accordingly.

COMMENT 20: One commenter suggested that (2)(e)(v)(A) should provide an end-date by which monuments must be set, and that date should coincide with the date provided in ARM 24.183.1101(1)(d).

RESPONSE 20: The board agrees with the comment and is amending (2)(e)(v)(A) accordingly.

COMMENT 21: One commenter stated the word "that" before "the land surveyor" in (2)(e)(vi) should be stricken.

RESPONSE 21: The board agrees with the comment and is amending (2)(e)(vi) accordingly.

COMMENT 22: One commenter remarked that the word "the" before "delta angle" in (2)(e)(ix) should be stricken.

RESPONSE 22: The board agrees with the comment and is amending (2)(e)(ix) accordingly.

COMMENT 23: One commenter stated that "nontangent" appearing twice in (2)(e)(ix) should be hyphenated.

RESPONSE 23: The board agrees with the comment and is amending (2)(e)(ix) accordingly.

COMMENT 24: One commenter suggested that the phrase "for each line and curve" should be inserted in (2)(e)(xi) to clarify the record measurement reference.

RESPONSE 24: The board agrees with the comment and is amending (2)(e)(xi) accordingly.

COMMENT 25: One commenter stated that in (2)(e)(xii) the correct term is "public record" and also suggested striking the "and" before "the bearings".

RESPONSE 25: The board agrees with the comment and is amending (2)(e)(xii) accordingly.

COMMENT 26: One commenter suggested that (2)(e)(xvii) should be reformatted to add (A) and renumber (A), (B), (C), and (D), to (I), (II), (III), and (IV), adding "or" after (III) and a period after (IV). Also, (E) should be renumbered to (B).

RESPONSE 26: The board agrees with the comment and is reformatting and renumbering (2)(e)(xvii) accordingly.

COMMENT 27: One commenter asserted that the first word in (2)(e)(xvii)(B) should be changed from "If" to "When."

RESPONSE 27: The board agrees with the comment and is amending (2)(e)(xvii)(B) accordingly.

COMMENT 28: One commenter suggested adding language to allow the use of "POB" as an alternative abbreviation for "point of beginning" in (2)(e)(xvii)(B).

RESPONSE 28: The board agrees with the comment and is amending (2)(e)(xvii)(B) accordingly.

COMMENT 29: Several commenters suggested that the reference to "that act" be amended to "the Act" in (2)(e)(xviii).

RESPONSE 29: The board agrees with the comment and is amending (2)(e)(xviii) accordingly.

COMMENT 30: One commenter stated that "to" before "secure" in (2)(e)(xxiii)(C) should be stricken.

RESPONSE 30: The board agrees with the comment and is amending (2)(e)(xxiii)(C) accordingly.

COMMENT 31: One commenter asserted that (a) and (b) in (3) should be consolidated into one sentence.

RESPONSE 31: The board agrees with the comment and is amending (3) accordingly.

COMMENT 32: One commenter stated that "State" before "Department of Environmental Quality" in (5)(c) should be changed to "Montana" for clarity.

RESPONSE 32: The board agrees with the comment and is amending (5)(c) accordingly.

COMMENT 33: One commenter stated that "the" before "subdivision" in (5)(h) should be stricken.

RESPONSE 33: The board agrees with the comment and is amending (5)(h) accordingly.

COMMENT 34: Several commenters suggested that commas should be placed or stricken throughout the rule for clarity and meaning.

RESPONSE 34: The board agrees with the comments and is amending the rule accordingly.

5. The board has amended ARM 24.183.1104 and 24.183.1107 with the following changes, stricken matter interlined, new matter underlined:

24.183.1104 UNIFORM STANDARDS FOR CERTIFICATES OF SURVEY

(1) remains as proposed.

(a) A certificate of survey must be legibly drawn with permanent black ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches~~,~~ or 24 inches by 36 inches~~, with~~. Margins must be a minimum 1/2-inch ~~margin~~ on all sides, or as required by the filing office.

(b) through (d) remain as proposed.

(i) a title or title block~~,~~ including the quarter-section, section, township, range, principal meridian, county, and if applicable, city or town in which the surveyed land is located. Except as provided in (1)(f)(v), a certificate of survey must not contain the title "plat," "subdivision," or any title other than "Certificate of Survey";

(ii) through (v) remain as proposed.

(vi) the location of, and other information relating to all monuments found, set, reset, replaced, or removed as required by ARM 24.183.1101~~(1)(c)~~;

(A) If additional monuments are to be set after the certificate of survey is filed, the location of these monuments must be shown by a distinct symbol, and the certificate of survey must contain a certification by the land surveyor as to the reason the monuments have not been set and the date by which they will be set, as required by ARM 24.183.1101(1)(d).

(B) and (C) remain as proposed.

(vii) the location of any section corner or corners of divisions of sections the land surveyor deems to be pertinent to the survey~~,~~ or ~~that~~ was used as ~~a~~ control in the survey;

(viii) basis of bearing. For purposes of this rule, the term "basis of bearing" means the land surveyor's statement as to the origin of the bearings shown on the certificate of survey. If the basis of bearing(s) refers to two previously monumented points in a previously filed survey document, then the two previously monumented points must be shown and described on the certificate of survey~~;~~, the line marked by the two previously monumented points must be labeled "basis of bearing," and the previously filed survey document name or number must be cited in the land surveyor's statement as to the origin of the bearing(s). If the certificate of survey shows true bearings, the basis of bearing must describe the method by which these true bearings were determined;

(ix) the bearings, distances, and curve data of all boundary lines~~,~~ and all control or pertinent lines used to determine the boundaries of the parcel(s) surveyed. If the parcel surveyed is bounded by an irregular shoreline or a body of water that is a riparian boundary, the bearings and distances of a meander traverse generally paralleling the riparian boundary must be given;

(A) through (C) remain as proposed.

(x) data on all curves sufficient to enable the reestablishment of the curves on the ground. For circular curves, the data must at least include radius and arc length, and either delta angle, radial bearings, or chord bearing and distance. All ~~nontangent~~ non-tangent points of intersection on the curve must show either the bearings of radial lines or chord length and bearing. ~~Nontangent~~ Non-tangent curves must be so labeled;

(xi) remains as proposed.

(xii) at least one record measurement reference for each line and curve, if available, must be shown;

(xiii) a narrative legal description of the parcel(s) surveyed.

(A) The land surveyor, at his or her discretion, may choose the form of the narrative legal description as follows:

(A) remains as proposed, but is renumbered (I).

~~(B)~~ (II) If the certificate of survey depicts the division of one or more parcels shown on a previously filed certificate of survey, the narrative legal description may be the number of the previously filed certificate of survey and the parcel number of the parcel(s) previously surveyed; ~~or~~

(C) remains as proposed, but is renumbered (III).

~~(D)~~ (IV) If the survey creates or retraces one or more parcels, the narrative legal description may be either the metes-and-bounds description of each individual parcel created by the survey or the metes-and-bounds description of the perimeter boundary of the parcels surveyed; or

~~(E)~~ (V) If the narrative legal description does not fall within (1)(d)(xiii)(A) (I), ~~(B)~~ (II), or ~~(C)~~ (III), then the narrative legal description required by this subsection must conform with (1)(d)(xiii)~~(D);~~(A)(IV).

~~(F) If~~ (B) When the narrative legal description is metes-and-bounds, the point of beginning, which is also the point of closure of the legal description of the parcel surveyed, must be labeled "Point of Beginning."~~; and~~ Alternatively, the point

of beginning may be labeled "POB" if the abbreviation is defined on the certificate of survey.

~~(G)~~ (C) The requirement of this rule does not apply to certificates of survey that depict a partial retracement of the boundaries of an existing parcel or establish the location of lines or corners that control the location of an existing parcel~~;~~.

(xiv) all parcels created or retraced by the certificate of survey~~,~~ designated by number or letter, and the bearings, distances, curve data, and area of each parcel, except as provided in (1)(f)(iii). If a parcel created by the certificate of survey is identifiable as a 1/32 or larger aliquot part of a U.S. government section or as a U.S. government lot, it may be designated by number or letter or by its aliquot part or government lot identification;

(xv) remains as proposed.

(xvi) the dated signature and the seal of the land surveyor responsible for the survey. The land surveyor's signature certifies that the certificate of survey has been prepared in conformance with the applicable sections of the Montana Subdivision and Platting Act and the regulations adopted under ~~that act~~ the Act;

(xvii) through (xix) remain as proposed.

(e) Certificates of survey that do not represent a division or aggregation of land, such as those depicting the retracement of an existing parcel and those prepared for informational purposes, must contain a statement as to their purpose and must meet applicable requirements of this rule for form and content. If the purpose of a certificate of survey is stated as a retracement or partial retracement, and if multiple tracts of record contained within the parcel's perimeter boundary on the certificate of survey are not individually shown, then the certificate of survey does not expunge the tracts of record~~,~~ unless it conforms to (1)(f)(iv) and contains the acknowledged certificate of the property owner(s)~~,~~ citing the applicable exemption in its entirety.

(f) remains as proposed.

(i) If the exemption relied upon requires that the property owner enter into a covenant running with the land, the certificate of survey may not be filed~~,~~ unless it shows or contains a signed and acknowledged recitation of the covenant in its entirety.

(ii) through (iv) remain as proposed.

(A) The certificate of survey must contain the signatures of all landowners whose tracts of record will be altered by the proposed aggregation. The certificate of survey must show that the exemption was used only to eliminate a boundary line or lines common to two or more tracts of record, and must clearly distinguish the prior boundary location or locations (shown, for example, by dashed or broken line(s) with a notation) from the new perimeter boundary location or locations (shown, for example, by solid line(s) with a notation); and

(B) through (vi) remain as proposed.

(vii) For purposes of this rule, when the parcel of land for which an exemption from ~~a~~ subdivision review is claimed is being conveyed under a contract-for-deed, the terms "property owner," "landowner," and "owner" mean the seller of the land under the contract-for-deed.

(g) remains as proposed.

(h) Procedures for filing certificates of survey of divisions of land entirely exempted from the requirements of the Montana Subdivision and Platting Act. The divisions of land described in 76-3-201, 76-3-205, and 76-3-209, MCA, and divisions of federally owned land made by a U.S. government agency are not required to be surveyed, nor must a certificate of survey or plat showing these divisions be filed with the clerk and recorder. However, a certificate of survey of one of these divisions may be filed with the clerk and recorder if the certificate of survey meets the requirements for form and content for certificates of survey contained in this rule, and contains a certificate of all the landowners citing the applicable exemption from the ~~act~~ Act in its entirety, or when applicable, that the land surveyed is owned by the federal government. The certificate of survey must establish the boundaries of the exemption parcel(s). The certificate of survey is not required to establish, but may establish, the exterior boundaries of the remaining portion of the parent tract of land. However, the certificate of survey must show portions of the existing unchanged boundaries sufficient ~~as~~ to identify the location and extent of the exemption parcel to be created. Unsurveyed portions of the parent tract of land must be labeled, "NOT A PART OF THIS CERTIFICATE OF SURVEY" or "NOT INCLUDED IN THIS CERTIFICATE OF SURVEY".

24.183.1107 UNIFORM STANDARDS FOR FINAL SUBDIVISION PLATS

(1) and (a) remain as proposed.

(b) the plat includes a ~~conditions~~ Conditions of ~~approval~~ Approval sheet(s) that complies with the requirements contained in (4); and

(c) and (2) remain as proposed.

(a) A plat must be legibly drawn with permanent black ink or printed or reproduced by a process guaranteeing a permanent record and must be 18 inches by 24 inches or 24 inches by 36 inches~~, with~~. Margins must be a minimum 1/2-inch ~~margin~~ on all sides, or as required by the filing office.

(b) through (e) remain as proposed.

(i) a title or title block~~,~~ including the quarter-section, section, township, range, principal meridian, county, and if applicable, city or town in which the subdivision is located. The title of the plat must contain the words "plat" and either "subdivision" or "addition";

(ii) through (iv) remain as proposed.

(v) the location of, and other information relating to all monuments found, set, reset, replaced, or removed as required by ARM 24.183.1101~~(1)(c)~~;

(A) If additional monuments are to be set after the plat is filed, the location of these monuments must be shown by a distinct symbol, and the plat must contain a certification by the land surveyor as to the reason the monuments have not been set and the date by which they will be set, as required by ARM 24.183.1101(1)(d).

(B) and (C) remain as proposed.

(vi) the location of any section corner or corners of divisions of sections ~~that~~ the land surveyor deems to be pertinent to the survey or was used as control in the survey;

(vii) basis of bearing. For purposes of this rule, the term "basis of bearing" means the land surveyor's statement as to the origin of the bearings shown on the plat. If the basis of bearing(s) refers to two previously monumented points in a

previously filed survey document, then the two previously monumented points must be shown and described on the plat~~;~~, the line marked by the two previously monumented points must be labeled "basis of bearing," and the previously filed survey document name or number must be cited in the land surveyor's statement as to the origin of the bearing(s). If the plat shows true bearings, the basis of bearing must describe the method by which these true bearings were determined;

(viii) through (B) remain as proposed.

(C) If a boundary, control, or pertinent line contains multiple segments of the whole, then the overall distance must be shown, and each segment must at least include distance.

(ix) data on all curves sufficient to enable the reestablishment of the curves on the ground. For circular curves, the data must at least include radius and arc length, and either ~~the~~ delta angle, radial bearings, or chord bearing~~,~~ and distance. All ~~nontangent~~ non-tangent points of intersection on the curve must show either the bearings of radial lines or chord length and bearing. ~~Nontangent~~ Non-tangent curves must be so labeled;

(x) remains as proposed.

(xi) at least one record measurement reference for each line and curve, if available, must be shown;

(xii) remains as proposed.

(xiii) all existing rights-of-way for streets, alleys, avenues, roads, and highways that adjoin or are within the boundaries of the subdivision; their names and widths from public ~~records~~ record (if ascertainable); ~~and~~ the bearings, distances, and curve data of their adjoining boundaries. If the existing right(s)-of-way is contained within the boundaries of the subdivision, then the area of the portion of the right(s)-of-way within the subdivision shall be shown;

(xiv) through (xvi) remain as proposed.

(xvii) a narrative legal description of the subdivision.

(A) The land surveyor, at his or her discretion, may choose the form of the narrative legal description as follows:

~~(A)~~ (I) If the land to be subdivided is either an aliquot part of a U.S. government section or a U.S. government lot, the narrative legal description may be the aliquot part or the government lot description of the land; ~~or~~

(B) remains as proposed, but is renumbered (II).

~~(C)~~ (III) The narrative legal description may be the metes-and-bounds description of the perimeter boundary of the subdivision; or

~~(D)~~ (IV) If the narrative legal description does not fall within (2)(e)(xvii)(A) (I) or ~~(B)~~ (II), the narrative legal description required by this subsection is the metes-and-bounds description of the perimeter boundary of the subdivision~~; and~~.

~~(E) If~~ (B) When the narrative legal description is metes-and-bounds, the point of beginning, which is also the point of closure of the legal description of the subdivision surveyed, must be labeled "Point of Beginning." Alternatively, the point of beginning may be labeled "POB" if the abbreviation is defined on the plat.

(xviii) the dated signature and the seal of the land surveyor responsible for the survey. The land surveyor's signature certifies that the plat has been prepared in conformance with the applicable sections of the Montana Subdivision and Platting Act and the regulations adopted under ~~that act~~ the Act. The land surveyor's

signature and certification do not include certification of the ~~conditions~~ Conditions of ~~approval~~ Approval sheet(s);

(xix) through (xxiii) remain as proposed.

(A) A statement that federal, state, and local plans, policies, regulations, and/or conditions of subdivision approval that may limit the use of the property, including the location, size, and use are shown on the ~~conditions~~ Conditions of ~~approval~~ Approval sheet or as otherwise stated.

(B) A statement that buyers of property should ensure that they have obtained and reviewed all sheets of the plat and all documents recorded and filed in conjunction with the plat~~,~~ and that buyers of property are strongly encouraged to contact the local planning department and become informed of any limitations on the use of the property prior to closing.

(C) A statement that all or part of the required public improvements have been installed and/or security requirements pursuant to 76-3-507, MCA, ~~to~~ secure the future construction of any remaining public improvements to be installed.

(xxiv) through (f) remain as proposed.

(3) The following certifications of final plat approval must appear on the plat or on the ~~conditions~~ Conditions of ~~approval~~ Approval sheet as contained in (4), or recorded or filed as contained in (5) of these rules:

(a) ~~a~~ A certification by the county treasurer that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid~~;~~ and,

~~(b)~~ if applicable, certification of the local health officer having jurisdiction.

(4) If applicable, a sheet(s) of the plat prepared by the landowner(s) or their representative(s) depicting conformance with subdivision application approval shall be entitled "~~conditions~~ Conditions of ~~approval~~ Approval of [insert name of subdivision]~~,~~" with a title block~~,~~ including the quarter-section, section, township, range, principal meridian, county, and, if applicable, city or town in which the subdivision is located, and shall contain:

(a) any text and/or graphic representations of requirements by the governing body for final plat approval~~,~~ including, but not limited to, setbacks from streams or riparian areas, floodplain boundaries, no-build areas, building envelopes, or the use of particular parcels;

(b) a certification statement by the landowner that the text and/or graphics shown on the ~~conditions~~ Conditions of ~~approval~~ Approval sheet(s) represent(s) requirements by the governing body for final plat approval and that all conditions of subdivision application have been satisfied; and

(c) remains as proposed.

(5) If applicable, the following documents~~,~~ as specified by local government~~,~~ shall accompany the approved final plat and shall be recorded or filed with the plat as specified by the clerk and recorder, and the recording or filing number(s) for each document may be written on the plat by the clerk and recorder:

(a) a title report or certificate of a title abstractor showing the names of the owners of record of the land to be subdivided, and the names of any lien holders or claimants of record against the land, and the written consent to the subdivision by the owners of the land~~,~~ if other than the subdivider, and any lien holders or claimants of record against the land;

(b) remains as proposed.

(c) for lots less than 20 acres in size, exclusive of public roadways, a certification from the ~~State~~ Montana Department of Environmental Quality stating that it has approved the plans and specifications for water supply and sanitary facilities pursuant to 76-4-104(2), MCA;

(d) and (e) remain as proposed.

(f) unless otherwise provided in local subdivision regulations, copies of final plans, profiles, grades, and specifications for improvements, including a complete grading and drainage plan, with the certification of a professional engineer~~,~~ that all required improvements which have been installed are in conformance with the attached plans. Local subdivision regulations may authorize the subdivider, under conditions satisfactory to the governing body, to prepare these plans and specifications after the final plat has been filed, or file them with a government official other than the clerk and recorder, or both. If the approved plans and specifications are or will be filed with a government official other than the clerk and recorder, then a document or a statement on the ~~conditions~~ Conditions of ~~approval~~ Approval sheet that states where the plans can be obtained must be filed or recorded;

(g) remains as proposed.

(h) any other documents satisfying ~~the~~ subdivision application approval required by the governing body to be filed or recorded.

6. The board is not amending ARM 24.183.1001 as proposed.

BOARD OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS
DAVID ELIAS, CHAIRPERSON

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

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

Certified to the Secretary of State April 15, 2013

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

In the matter of the repeal of ARM 37.87.1503, 37.87.1513, 37.87.1703, 37.87.1723, 37.87.1733, 37.87.1903, 37.87.1915, and 37.87.2103 pertaining to children's mental health services plan (CMHSP)	))))))	NOTICE OF REPEAL

TO: All Concerned Persons

1. On February 28, 2013 the Department of Public Health and Human Services published MAR Notice No. 37-626 pertaining to the proposed repeal of the above-stated rules at page 254 of the 2013 Montana Administrative Register, Issue Number 4.

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

3. No comments or testimony were received.

4. These rule repeals are effective May 1, 2013.

/s/ John Koch
John Koch
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State April 15, 2013

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

In the matter of the amendment of ARM 37.85.105, 37.86.2803, 37.86.2901, 37.86.2907, and 37.86.2928, pertaining to Medicaid inpatient hospital services	)))))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On February 28, 2013 the Department of Public Health and Human Services published MAR Notice No. 37-627 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 258 of the 2013 Montana Administrative Register, Issue Number 4.

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

3. No comments or testimony were received.

4. The department intends to apply these rules retroactively to April 1, 2013. A retroactive application of the proposed rules does not result in a negative impact to any affected party.

/s/ John Koch
John Koch
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State April 15, 2013.

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 December 31, 2012. This table includes those rules adopted during the period January 1, 2013, through March 31, 2013, and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through December 31, 2012, 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 2012/2013 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.

(Burial Preservation Board)

2.65.102 and other rules - Repatriation of Human Skeletal Remains - Funerary Objects - Human Skeletal Remains - Burial Site Protection, p. 308

AGRICULTURE, Department of, Title 4

4.6.202 Annual Potato Assessment, p. 1, 264

4.10.202 and other rules - Aerial Applicator, p. 1652, 2185

STATE AUDITOR, Title 6

6.6.2403 Group Coordination of Benefits, p. 2296

6.6.5201 and other rules - Small Business Health Insurance - Purchasing Pool - Tax Credit - Premium Assistance - Premium Incentive Payments, p. 111

COMMERCE, Department of, Title 8

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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 March 2013 appear. Vacancies scheduled to appear from May 1, 2013, through July 31, 2013, 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 April 1, 2013.

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 MARCH 2013

Appointee	Appointed by	Succeeds	Appointment/End Date
Board of Aeronautics (Transportation)			
Mr. Bill Hunt Jr. Shelby	Governor	reappointed	3/29/2013 1/1/2017
Qualifications (if required): representative of the Montana League of Cities and Towns and an Attorney			
Mr. Fred Leistiko Kalispell	Governor	reappointed	3/29/2013 1/1/2017
Qualifications (if required): representative of the Montana Airport Management Association			
Mr. Roger Lincoln Gildford	Governor	reappointed	3/29/2013 1/1/2017
Qualifications (if required): member of the Montana Aerial Applicators' Association			
Ms. Tricia McKenna Bozeman	Governor	Schye	3/29/2013 1/1/2017
Qualifications (if required): member of the Montana Pilots' Association			
Board of Chiropractors (Labor and Industry)			
Dr. Cathleen Fellows Billings	Governor	reappointed	3/15/2013 1/1/2016
Qualifications (if required): Chiropractor			
Board of Crime Control (Justice)			
Mr. Mike Batista Helena	Governor	Ferriter	3/15/2013 1/1/2015
Qualifications (if required): Law Enforcement Representative			

BOARD AND COUNCIL APPOINTEES FROM MARCH 2013

Appointee	Appointed by	Succeeds	Appointment/End Date
Board of Crime Control (Justice) cont.			
Ms. Pamela Carbonari	Governor	reappointed	3/15/2013
Kalispell			1/1/2017
Qualifications (if required): Youth Justice Council Chair			
Mr. James R. Cashell	Governor	Hanser	3/15/2013
Bozeman			1/1/2017
Qualifications (if required): Public Representative			
Chief William Dial	Governor	Erickson	3/15/2013
Whitefish			1/1/2017
Qualifications (if required): Local Law Enforcement Representative			
Sheriff Leo C. Dutton	Governor	Cashell	3/15/2013
Helena			1/1/2017
Qualifications (if required): Local Law Enforcement Representative			
Mr. Curtis Harper	Governor	Anderson	3/15/2013
Billings			1/1/2017
Qualifications (if required): Public Representative			
Mr. William Hooks	Governor	Hood	3/15/2013
Helena			1/1/2015
Qualifications (if required): Criminal Justice Agency Representative			
Mr. Steve McArthur	Governor	reappointed	3/15/2013
Butte			1/1/2017
Qualifications (if required): Community Corrections Representative			

BOARD AND COUNCIL APPOINTEES FROM MARCH 2013

Appointee	Appointed by	Succeeds	Appointment/End Date
Board of Crime Control (Justice) cont.			
Ms. Beth McLaughlin	Governor	Menzies	3/15/2013
Helena			1/1/2015
Qualifications (if required): Judge/Judiciary Representative			
Mrs. Michelle Miller	Governor	Baker-Hajek	3/15/2013
Butte			1/1/2017
Qualifications (if required): Community Based Organization Representative			
Mr. Nickolas C. Murnion	Governor	reappointed	3/15/2013
Glasgow			1/1/2017
Qualifications (if required): Law Enforcement Representative			
Commissioner Laura Obert	Governor	reappointed	3/15/2013
Townsend			1/1/2017
Qualifications (if required): Local Government Representative			
Board of Horseracing (Livestock)			
Mr. Steve Austin	Governor	reappointed	3/29/2013
Helena			1/1/2017
Qualifications (if required): District 5 Representative			
Sen. Dale Mahlum	Governor	reappointed	3/29/2013
Missoula			1/1/2017
Qualifications (if required): member of the Horseracing Industry			

BOARD AND COUNCIL APPOINTEES FROM MARCH 2013

Appointee	Appointed by	Succeeds	Appointment/End Date
Board of Horseracing (Livestock) cont.			
Mr. Shawn Real Bird Garryowen Qualifications (if required): District 2 Representative	Governor	reappointed	3/29/2013 1/1/2017
Mr. Ralph Young Columbus Qualifications (if required): member of the Horseracing Industry	Governor	reappointed	3/29/2013 1/1/2017
Board of Housing (Commerce)			
Ms. Ingrid Firemoon Wolf Point Qualifications (if required): Public Representative	Governor	Black Eagle	3/29/2013 1/1/2017
Mr. Pat Melby Helena Qualifications (if required): Attorney	Governor	Scanlin	3/29/2013 1/1/2017
Board of Livestock (Livestock)			
Mr. John Lehfeldt Lavina Qualifications (if required): Sheep Producer	Governor	reappointed	3/26/2013 1/1/2019
Mr. John Scully Bozeman Qualifications (if required): Cattle Producer	Governor	Boone	3/26/2013 1/1/2019

BOARD AND COUNCIL APPOINTEES FROM MARCH 2013

Appointee	Appointed by	Succeeds	Appointment/End Date
Board of Occupational Therapy Practice (Labor and Industry)			
Ms. Caryn Kallay	Governor	Stergar	3/29/2013
Ronan			12/31/2014
Qualifications (if required): Public Representative			
Ms. Brenda Toner	Governor	Yocom	3/29/2013
Missoula			12/31/2016
Qualifications (if required): Occupational Therapist			
Ms. Lora Wier	Governor	Furey	3/29/2013
Choteau			12/31/2016
Qualifications (if required): Public Representative			
Board of Oil and Gas Conservation (Natural Resources and Conservation)			
Mr. John Evans	Governor	Bradshaw	3/29/2013
Butte			1/1/2017
Qualifications (if required): oil and gas industry representative			
Sen. Linda Nelson	Governor	reappointed	3/29/2013
Medicine Lake			1/1/2017
Qualifications (if required): landowner with minerals			
Director Mary Sexton	Governor	Gunderson	3/29/2013
Helena			1/1/2017
Qualifications (if required): public representative			

BOARD AND COUNCIL APPOINTEES FROM MARCH 2013

Appointee	Appointed by	Succeeds	Appointment/End Date
Board of Oil and Gas Conservation (Natural Resources and Conservation) cont.			
Mr. Wayne Smith	Governor	reappointed	3/29/2013
Valier			1/1/2017
Qualifications (if required): oil and gas industry representative			
Board of Optometry (Labor and Industry)			
Dr. Marcus Kelley	Governor	Svennungsen	3/29/2013
Helena			4/3/2017
Qualifications (if required): optometrist			
Board of Personnel Appeals (Labor and Industry)			
Ms. Rina Fontana-Moore	Governor	Stanton	3/22/2013
Great Falls			1/1/2017
Qualifications (if required): Management Representative			
Mr. Quinton Nyman	Governor	reappointed	3/22/2013
Helena			1/1/2017
Qualifications (if required): Labor Union Representative			
Mr. James P. Reardon	Governor	reappointed	3/22/2013
East Helena			1/1/2017
Qualifications (if required): Labor Union Representative			
Board of Public Education (Education)			
Mr. Paul Andersen	Governor	Cordier	3/18/2013
Bozeman			2/1/2020
Qualifications (if required): District 1			

BOARD AND COUNCIL APPOINTEES FROM MARCH 2013

Appointee	Appointed by	Succeeds	Appointment/End Date
Board of Regents (Education)			
Mr. Major Robinson	Governor	reappointed	3/18/2013
Billings			2/1/2018
Qualifications (if required): District 2 Representative			
Mr. Paul Tuss	Governor	reappointed	3/18/2013
Havre			2/1/2020
Qualifications (if required): District 2 Representative			
Capitol Complex Advisory Council (Administration)			
Dr. Aimee R. Ameline	Governor	reappointed	3/29/2013
Great Falls			3/29/2018
Qualifications (if required): Dentist			
Ms. Sheena Wilson	Governor	Miller	3/26/2013
Helena			1/1/2017
Qualifications (if required): Public Representative			
Economic Development Advisory Council (Commerce)			
Mr. Brent Campbell	Governor	Hogan	3/29/2013
Missoula			7/23/2014
Qualifications (if required): Public Representative			
Fish, Wildlife and Parks Commission (Fish, Wildlife and Parks)			
Rep. Bob Ream	Governor	reappointed	3/17/2013
Helena			1/1/2017
Qualifications (if required): District 1 Representative			

BOARD AND COUNCIL APPOINTEES FROM MARCH 2013

Appointee	Appointed by	Succeeds	Appointment/End Date
Fish, Wildlife and Parks Commission (Fish, Wildlife and Parks) cont.			
Mr. Richard Stuker	Governor	Moody	3/17/2013
Chinook			1/1/2017
Qualifications (if required): District 3 Representative			
Mr. Matthew Tourlotte	Governor	Colton	3/17/2013
Billings			1/1/2017
Qualifications (if required): District 5 Representative			
Mr. Lawrence Wetsit	Governor	Stafne	3/17/2013
Wolf Point			1/1/2015
Qualifications (if required): District 4 Representative			
Flathead Basin Commission (Natural Resources and Conservation)			
Mr. Chas. Cartwright	Governor	Sogard	3/22/2013
Columbia Falls			10/1/2013
Qualifications (if required): Public Representative			
Land Information Advisory Council (Administration)			
Director Jeff Hagener	Governor	Maurier	3/20/2013
Helena			1/1/2017
Qualifications (if required): Agency Representative			

BOARD AND COUNCIL APPOINTEES FROM MARCH 2013

Appointee	Appointed by	Succeeds	Appointment/End Date
Land Information Advisory Council (Administration) cont.			
Rep. Mike Kadas Missoula Qualifications (if required): Agency Representative	Governor	Bucks	3/20/2013 1/1/2017
Ms. Tracy Stone-Manning Missoula Qualifications (if required): Agency Representative	Governor	Opper	3/20/2013 1/1/2017
Director Mike Tooley Helena Qualifications (if required): Agency Representative	Governor	Reardon	3/20/2013 1/1/2017
Livestock Loss Board (Livestock)			
Mrs. Whitney Klasna Lambert Qualifications (if required): Public Representative with experience in Livestock	Governor	not listed	3/26/2013 1/1/2017
Montana Facility Finance Authority (Commerce)			
Mr. James W. (Bill) Kearns Townsend Qualifications (if required): Public Representative	Governor	reappointed	3/15/2013 1/1/2017
Mr. Richard C. King Missoula Qualifications (if required): Public Representative	Governor	reappointed	3/15/2013 1/1/2017

BOARD AND COUNCIL APPOINTEES FROM MARCH 2013

Appointee	Appointed by	Succeeds	Appointment/End Date
Montana Facility Finance Authority (Commerce) cont.			
Mr. Jon Marchi Polson Qualifications (if required): Public Representative	Governor	reappointed	3/15/2013 1/1/2017
Mr. Larry Putnam Helena Qualifications (if required): Public Representative	Governor	reappointed	3/15/2013 1/1/2017
Public Safety Officer Standards and Training Council (POST Council) (Justice)			
Mrs. Laurel Bulson Helena Qualifications (if required): Detention Center Representative	Governor	McCave	3/15/2013 1/1/2017
Ms. Kim Burdick Fort Benton Qualifications (if required): Public Representative	Governor	McCarthy	3/15/2013 1/1/2017
Sheriff Tony Harbaugh Miles City Qualifications (if required): Sheriff	Governor	reappointed	3/15/2013 1/1/2017
Mr. William J. "Bill" LaBrie Whitefish Qualifications (if required): Board of Crime Control Representative	Governor	Hanser	3/15/2013 1/1/2017

BOARD AND COUNCIL APPOINTEES FROM MARCH 2013

Appointee	Appointed by	Succeeds	Appointment/End Date
Public Safety Officer Standards and Training Council (POST Council) (Justice) cont.			
Mr. John Strandell	Governor	Betz	3/15/2013
Helena			1/1/2017
Qualifications (if required): State Government Law Enforcement Representative			
Mr. Jim Thomas	Governor	Murray	3/15/2013
Canyon Creek			1/1/2017
Qualifications (if required): Public Representative			
Resource Conservation Advisory Council (Natural Resources and Conservation)			
Mr. Bob Breipohl	Director	Mattelin	3/20/2013
Saco			3/20/2015
Qualifications (if required): Eastern Montana			
Mr. Pete Dallaserra	Director	not listed	3/20/2013
Butte			3/20/2015
Qualifications (if required): General Public			
Ms. Lauraine Johnson	Director	not listed	3/20/2013
Plains			3/20/2015
Qualifications (if required): Western Montana			
Ms. Judi Knapp	Director	Hanser	3/20/2013
Hysham			3/20/2015
Qualifications (if required): South Central Montana			

BOARD AND COUNCIL APPOINTEES FROM MARCH 2013

Appointee	Appointed by	Succeeds	Appointment/End Date
State Emergency Response Commission (Military Affairs)			
Mr. O. Ramsey Offerdal	Director	not listed	3/20/2013
Conrad			3/20/2015
Qualifications (if required):	North Central Montana		
General John Walsh	Governor	Wilson	3/29/2013
Helena			1/1/2017
Qualifications (if required):	Governor's Office Representative		
State Workforce Investment Board (Labor and Industry)			
Director Pam Bucy	Governor	Kelly	3/20/2013
Helena			1/1/2017
Qualifications (if required):	Labor and Industry Commissioner		
Ms. Meg O'Leary	Governor	Schwinden	3/20/2013
Big Sky			1/1/2017
Qualifications (if required):	Director of Department of Commerce		
Director Richard Opper	Governor	Whiting-Sorrell	3/20/2013
Helena			1/1/2017
Qualifications (if required):	Director of Department of Public Health and Human Services		
Mr. John Rogers	Governor	Barrett	3/20/2013
Helena			1/1/2017
Qualifications (if required):	Governor's Office Representative		

BOARD AND COUNCIL APPOINTEES FROM MARCH 2013

Appointee	Appointed by	Succeeds	Appointment/End Date
Transportation Commission (Transportation)			
Mr. Larry Aber	Governor	Seymour-Winterburn	3/29/2013
Columbus			1/1/2017
Qualifications (if required):	District 3 Representative		
Sen. John Cobb	Governor	Seymour-Winterburn	3/29/2013
Augusta			1/1/2017
Qualifications (if required):	District 3 Representative		
Mr. Rick Griffith	Governor	reappointed	3/29/2013
Butte			1/1/2017
Qualifications (if required):	District 2 Representative		
Ms. Barb Skelton	Governor	reappointed	3/29/2013
Billings			1/1/2017
Qualifications (if required):	District 5 Representative		
Upper Clark Fork River Basin Remediation and Restoration Advisory Council (Justice)			
Director John Tubbs	Governor	Sexton	3/20/2013
Helena			7/31/2013
Qualifications (if required):	Director of the Department of Natural Resources and Conservation		

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Advisory Council on State Workforce Development and Planning (Administration)		
Sen. Mike Cooney, Helena	Governor	6/30/2013
Qualifications (if required): recommended by Keith Kelly		
Mr. Tim Reardon, Helena	Governor	6/30/2013
Qualifications (if required): none specified		
Director Dore Schwinden, Helena	Governor	6/30/2013
Qualifications (if required): none specified		
Director Mike Ferriter, Helena	Governor	6/30/2013
Qualifications (if required): none specified		
Director Janet Kelly, Helena	Governor	6/30/2013
Qualifications (if required): none specified		
Ms. Madalyn Quinlan, Helena	Governor	6/30/2013
Qualifications (if required): recommended by Denise Juneau		
Ms. Amy Sassano, Helena	Governor	6/30/2013
Qualifications (if required): none specified		
Mr. Tim Burton, Helena	Governor	6/30/2013
Qualifications (if required): representing agencies of other elected officials		
Mr. Tom Livers, Helena	Governor	6/30/2013
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Advisory Council on State Workforce Development and Planning (Administration) cont.		
Mr. Dick Clark, Helena Qualifications (if required): representing statewide IT interests	Governor	6/30/2013
Ms. Lesa Evers, Helena Qualifications (if required): none specified	Governor	6/30/2013
Ms. Jane Smilie, Helena Qualifications (if required): recommended by Anna Whiting Sorrell	Governor	6/30/2013
Mr. Alan Peura, Helena Qualifications (if required): recommended by Dan Bucks	Governor	6/30/2013
Ms. Arlynn "Arni" Fishbaugh, Helena Qualifications (if required): representing small agencies	Governor	6/30/2013
Aging Advisory Council (Public Health and Human Services)		
Ms. Betty Aye, Broadus Qualifications (if required): public representative	Governor	7/18/2013
Ms. Connie Bremner, Browning Qualifications (if required): public representative	Governor	7/18/2013
Mr. Alex Ward, Helena Qualifications (if required): public representative	Governor	7/18/2013
Ms. Cecelia (C.A.) Buckley, Great Falls Qualifications (if required): public representative	Governor	7/18/2013

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Agriculture Development Council (Agriculture)		
Mr. Ervin Schlemmer, Joliet	Governor	7/1/2013
Qualifications (if required): agriculture producer		
Mr. Verges Aageson, Gilford	Governor	7/1/2013
Qualifications (if required): agriculture producer		
Board of Banking (Administration)		
Ms. Evelyn Casterline, Vida	Governor	7/1/2013
Qualifications (if required): public representative		
Mr. Kenneth M Walsh, Twin Bridges	Governor	7/1/2013
Qualifications (if required): national bank officer of a medium sized bank		
Board of Funeral Service (Labor and Industry)		
Mr. William Cronin, Havre	Governor	7/1/2013
Qualifications (if required): mortician		
Board of Hearing Aid Dispensers (Labor and Industry)		
Mr. Gene W. Bukowski, Billings	Governor	7/1/2013
Qualifications (if required): hearing aid dispenser with a master's degree and national certification		
Board of Massage Therapists (Labor and Industry)		
Ms. Grace Bowman, Billings	Governor	5/6/2013
Qualifications (if required): public representative		
Ms. Deborah Kimmet, Missoula	Governor	5/6/2013
Qualifications (if required): massage therapist		

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Board of Massage Therapists (Labor and Industry) cont.		
Mr. Nick Soloway, Helena Qualifications (if required): massage therapist	Governor	5/6/2013
Ms. Carole Love, Billings Qualifications (if required): public representative	Governor	5/6/2013
Board of Nursing (Labor & Industry)		
Ms. Barbara Lundemo, Sidney Qualifications (if required): advanced practice registered nurse	Governor	7/1/2013
Board of Nursing Home Administrators (Labor and Industry)		
Mr. Thomas Klotz, Glasgow Qualifications (if required): nursing home administrator	Governor	5/28/2013
Board of Pharmacy (Labor and Industry)		
Ms. Frances Carlson, Great Falls Qualifications (if required): public representative	Governor	7/1/2013
Ms. Rebekah Matovich, Billings Qualifications (if required): pharmacy technician	Governor	7/1/2013
Board of Physical Therapy Examiners (Labor and Industry)		
Ms. Robin Peterson Smith, Billings Qualifications (if required): physical therapist	Governor	7/1/2013

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Board of Plumbers (Labor and Industry)		
Ms. Donna L. Paulson, Great Falls	Governor	5/4/2013
Qualifications (if required): public representative		
Board of Public Accountants (Labor and Industry)		
Mr. Rick Reisig, Great Falls	Governor	7/1/2013
Qualifications (if required): Certified Public Accountant		
Ms. Linda Harris, Absarokee	Governor	7/1/2013
Qualifications (if required): Certified Public Accountant		
Board of Radiologic Technologists (Labor and Industry)		
Mr. Mike Nielsen, Billings	Governor	7/1/2013
Qualifications (if required): radiologic technician/radiology practitioner assistant		
Board of Real Estate Appraisers (Labor and Industry)		
Mr. Dennis Hoeger, Bozeman	Governor	5/1/2013
Qualifications (if required): real estate appraiser		
Ms. Jennifer McGinnis, Polson	Governor	5/1/2013
Qualifications (if required): real estate appraiser		
Mr. Jeffrey Fleming, Huntley	Governor	5/1/2013
Qualifications (if required): public representative		
Board of Realty Regulation (Labor and Industry)		
Ms. Lucinda Willis, Polson	Governor	5/9/2013
Qualifications (if required): real estate salesperson and a Democrat		

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Board of Sanitarians (Labor and Industry)		
Mr. James Zabrocki, Miles City	Governor	7/1/2013
Qualifications (if required): sanitarian		
Board of Veterinary Medicine (Labor and Industry)		
Dr. Jean Lindley, Miles City	Governor	7/31/2013
Qualifications (if required): veterinarian		
Board of Water Well Contractors (Natural Resources and Conservation)		
Mr. Pat Byrne, Great Falls	Governor	7/1/2013
Qualifications (if required): water well contractor		
Chief Water Judge (not listed)		
Mr. C. Bruce Loble, Bozeman	Chief Justice	6/30/2013
Qualifications (if required): none specified		
Commission on Practice of the Supreme Court (Supreme Court)		
Mr. Jon Oldenburg, Lewistown	elected	6/25/2013
Qualifications (if required): none specified		
Community Service Commission (Labor & Industry)		
Director Keith Kelly, Helena	Governor	7/1/2013
Qualifications (if required): agency representative		
Mr. Doug Braun, Billings	Governor	7/1/2013
Qualifications (if required): representative of organized labor		

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Community Service Commission (Labor & Industry) cont.		
Ms. Kimberly Miske, Wibaux Qualifications (if required): representative of local government	Governor	7/1/2013
Mr. Austin Lyle, Helena Qualifications (if required): youth representative	Governor	7/1/2013
Mr. Adam Vauthier, Anaconda Qualifications (if required): representative of a nonprofit organization	Governor	7/1/2013
Ms. Stefani Hicswa, Miles City Qualifications (if required): representative of a national service program	Governor	7/1/2013
District Court Council (District Court)		
Judge Robert L. Dusty Deschamps III, Missoula Qualifications (if required): nominated	District Court	7/1/2013
Economic Development Advisory Council (Commerce)		
Mr. Jim Smitham, Butte Qualifications (if required): public representative	Governor	7/23/2013
Mr. Paul Tuss, Havre Qualifications (if required): public representative	Governor	7/23/2013
Mr. Brodie Cooney, Missoula Qualifications (if required): public representative	Governor	7/23/2013

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Economic Development Advisory Council (Commerce) cont.		
Mr. Alan Ekblad, Great Falls	Governor	7/23/2013
Qualifications (if required): public representative		
Electrical Board (Labor and Industry)		
Mr. Jack Fisher, Butte	Governor	7/1/2013
Qualifications (if required): licensed electrician		
Electronic Government Advisory Council (Administration)		
Director Mary Sexton, Helena	Governor	6/18/2013
Qualifications (if required): agency representative		
Mr. Land Tawney, Missoula	Governor	6/18/2013
Qualifications (if required): public representative		
Mr. Christian Mackay, Helena	Governor	6/18/2013
Qualifications (if required): agency representative		
Ms. Karen Harrison, Lolo	Governor	6/18/2013
Qualifications (if required): public representative		
Commissioner Andy Hunthausen, Helena	Governor	6/18/2013
Qualifications (if required): local government official		
Family Education Savings Oversight Committee (Commissioner of Higher Education)		
Mr. Jon Satre, Helena	Governor	7/1/2013
Qualifications (if required): public representative		

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Family Education Savings Oversight Committee (Commissioner of Higher Education) cont.		
Mr. Robert W. Minto Jr., Missoula	Governor	7/1/2013
Qualifications (if required): public representative		
Future Fisheries Review Panel (Fish, Wildlife and Parks Department)		
Mr. Corey Fisher, Missoula	Governor	7/1/2013
Qualifications (if required): licensed angler		
Mr. Rick Arnold, Bozeman	Governor	7/1/2013
Qualifications (if required): licensed angler		
Mr. Gary Frank, Missoula	Governor	7/1/2013
Qualifications (if required): silvicultrist		
Ms. Ann Schwend, Helena	Governor	7/1/2013
Qualifications (if required): Conservation District representative		
Mr. William Gavin, Bozeman	Governor	7/1/2013
Qualifications (if required): restoration professional		
Mr. Levi Luoma, Red Lodge	Governor	7/1/2013
Qualifications (if required): high school student		
Grant Review Committee (Commerce)		
Mr. John Cech, Billings	Governor	6/30/2013
Qualifications (if required): representative of a two-year postsecondary institution		

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Grant Review Committee (Commerce) cont.		
Ms. Karen Byrnes, Butte	Governor	6/30/2013
Qualifications (if required): private sector economic development		
Ms. Linda Kindrick, Clancy	Governor	6/30/2013
Qualifications (if required): representative of private sector economic development		
Historical Society Board of Trustees (Historical Society)		
Clerk Ed Smith, Helena	Governor	7/1/2013
Qualifications (if required): public member		
Information Technology Managers Advisory Council (Administration)		
Ms. Margaret Kauska, Helena	Director	6/30/2013
Qualifications (if required): none specified		
Judicial Standards Commission (Justice)		
Mr. Victor F. Valgenti, Missoula	Supreme Court	6/30/2013
Qualifications (if required): none specified		
Judge Gary L. Day, Miles City	elected	6/30/2013
Qualifications (if required): none specified		
Mr. John Murphy, Great Falls	Governor	7/1/2013
Qualifications (if required): public representative		
Land Information Advisory Council (Administration)		
Director Dan Bucks, Helena	Governor	6/30/2013
Qualifications (if required): agency representative		

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Land Information Advisory Council (Administration) cont.		
Mr. Tim Reardon, Helena Qualifications (if required): agency representative	Governor	6/30/2013
Mr. Lance Clampitt, Bozeman Qualifications (if required): representative of the U.S. Interior Department	Governor	6/30/2013
Mr. Art Pembroke, Helena Qualifications (if required): local government representative	Governor	6/30/2013
Director Richard Opper, Helena Qualifications (if required): agency representative	Governor	6/30/2013
Ms. Catherine Maynard, Bozeman Qualifications (if required): representative of the U.S. Agriculture Department	Governor	6/30/2013
Mr. Ken Wall, Missoula Qualifications (if required): private sector representative	Governor	6/30/2013
Ms. Annette Cabrera, Billings Qualifications (if required): local government representative	Governor	6/30/2013
Ms. Christiane von Reichert, Missoula Qualifications (if required): university representative	Governor	6/30/2013
Mr. Rudy Cicon, Chester Qualifications (if required): land surveyor	Governor	6/30/2013

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Land Information Advisory Council (Administration) cont.		
Rep. Sue Malek, Missoula Qualifications (if required): agency representative	Governor	6/30/2013
Mr. James D. Claflin, Billings Qualifications (if required): representative of the U.S. Interior Department	Governor	6/30/2013
Mr. Warren Fahner, Troy Qualifications (if required): local government representative	Governor	6/30/2013
Mr. Dennis McCarthy, Kalispell Qualifications (if required): representative of the U.S. Agriculture Department	Governor	6/30/2013
Mr. Fred Gifford, Helena Qualifications (if required): private sector representative	Governor	6/30/2013
Mr. Johnny Doney, Poplar Qualifications (if required): tribal government representative	Governor	6/30/2013
Ms. Linda Vance, Helena Qualifications (if required): GIS professional	Governor	6/30/2013
Ms. Wendy Thingelstad, Polson Qualifications (if required): GIS professional	Governor	6/30/2013
Library Commission (Higher Education)		
Ms. Marsha Hinch, Choteau Qualifications (if required): public representative	Governor	5/22/2013

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Mental Disabilities Board of Visitors (Governor)		
Ms. Lin Olson, Helena	Governor	7/1/2013
Qualifications (if required): family member of a consumer of developmental disability services		
Ms. Betty N. Cooper, Heart Butte	Governor	7/1/2013
Qualifications (if required): mental health treatment professional		
Ms. Patricia Harant, Helena	Governor	7/1/2013
Qualifications (if required): consumer of mental health services		
Mint Committee (Agriculture)		
Mr. Kenneth W. Smith, Kalispell	Governor	7/1/2013
Qualifications (if required): mint grower		
Montana Cherry Commodity Advisory Committee (Agriculture)		
Mr. Oliver Dupuis, Polson	Director	5/3/2013
Qualifications (if required): none specified		
Montana Heritage Preservation and Development Commission (Commerce)		
Mr. Randy Hafer, Billings	Governor	5/23/2013
Qualifications (if required): business person		
Ms. Marilyn Ross, Twin Bridges	Governor	5/23/2013
Qualifications (if required): having experience in historic preservation		
Mr. Colin Mathews, Virginia City	Governor	5/23/2013
Qualifications (if required): public representative		

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Montana Heritage Preservation and Development Commission (Commerce) cont.		
Mr. Philip Maechling, Florence	Governor	5/23/2013
Qualifications (if required): community planner		
Montana Historical Society Board of Trustees (Historical Society)		
Ms. Sharon Lincoln, Billings	Governor	7/1/2013
Qualifications (if required): public member		
Ms. Janene Caywood, Missoula	Governor	7/1/2013
Qualifications (if required): archeologist		
Montana Noxious Weed Management Advisory Council (Agriculture)		
Mr. Jack Eddie, Dillon	Director	6/30/2013
Qualifications (if required): representative of the Montana Weed Control Association		
Mr. Jim Olivarez, Missoula	Director	6/30/2013
Qualifications (if required): representative of consumer group		
Mr. Todd Wagner, Glasgow	Director	6/30/2013
Qualifications (if required): Agriculture crop production representative		
Mr. Jim Story, Corvallis	Director	6/30/2013
Qualifications (if required): Biological Research and Control representative		
Mr. Jim Gordon, Huntley	Director	6/30/2013
Qualifications (if required): Herbicide dealer/applicator representative		

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Montana Noxious Weed Management Advisory Council (Agriculture) cont.		
Ms. Margie Edsall, Sheridan	Director	6/30/2013
Qualifications (if required): Western Montana counties representative		
Mr. Kurt Myllymaki, Stanford	Director	6/30/2013
Qualifications (if required): Consumer group representative		
Mr. Dick Zoanni, Sidney	Director	6/30/2013
Qualifications (if required): Eastern Montana counties representative		
Montana Potato Commodity Committee (Agriculture)		
Mr. Brad Haidle, Fallon	Director	6/25/2013
Qualifications (if required): none specified		
Mr. Pat Fleming, Pablo	Director	6/25/2013
Qualifications (if required): none specified		
Motorcycle Safety Advisory Commission (Commissioner of Higher Education)		
Mr. Carl Lawson, Missoula	Governor	7/1/2013
Qualifications (if required): cycle group member		
Petroleum Tank Release Compensation Board (Environmental Quality)		
Mr. Roger A. Noble, Kalispell	Governor	6/30/2013
Qualifications (if required): independent petroleum marketing industry representative		
Mr. Karl Hertel, Moore	Governor	6/30/2013
Qualifications (if required): insurance industry representative		

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Petroleum Tank Release Compensation Board (Environmental Quality) cont.		
Mr. Jerry M. Breen, Choteau	Governor	6/30/2013
Qualifications (if required): independent petroleum marketing industry representative		
Postsecondary Scholarship Advisory Council (Governor)		
Ms. Connie Wittak, Flaxville	Governor	6/20/2013
Qualifications (if required): having experience in secondary education		
Private Lands/Public Wildlife Council (Fish, Wildlife and Parks Department)		
Rep. Bob Ream, Helena	Governor	7/1/2013
Qualifications (if required): Fish, Wildlife and Parks Commissioner		
Mr. Jack Billingsley, Glasgow	Governor	7/1/2013
Qualifications (if required): outfitter		
Commissioner Chris King, Winnett	Governor	7/1/2013
Qualifications (if required): landowner		
Ms. Kathy Hadley, Deer Lodge	Governor	7/1/2013
Qualifications (if required): landowner		
Mr. Mike Penfold, Billings	Governor	7/1/2013
Qualifications (if required): sportsperson		
Mr. Joe Cohenour, East Helena	Governor	7/1/2013
Qualifications (if required): sportsperson		

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Private Lands/Public Wildlife Council (Fish, Wildlife and Parks Department) cont.		
Mr. Alex Nixon, Roberts	Governor	7/1/2013
Qualifications (if required): outfitter		
Professional Engineers and Land Surveyors (Labor and Industry)		
Mr. John Neil, Great Falls	Governor	7/1/2013
Qualifications (if required): licensed civil engineer		
Mr. Tom Heinecke, Kalispell	Governor	7/1/2013
Qualifications (if required): licensed mechanical engineer		
Public Defender Commission (Administration)		
Mr. Richard Gillespie, Helena	Governor	7/1/2013
Qualifications (if required): an attorney nominated by the Montana State Bar who represents criminal defense lawyers		
Mr. William Snell, Billings	Governor	7/1/2013
Qualifications (if required): employee of an organization providing addictive behavior counseling		
Ms. Margaret Novak, Chester	Governor	7/1/2013
Qualifications (if required): member of an organization advocating on behalf of indigent persons		
Mr. Alfred F. Avignone, Bozeman	Governor	7/1/2013
Qualifications (if required): attorney nominated by the Montana Supreme Court		
Mr. Brian Gallik, Bozeman	Governor	7/1/2013
Qualifications (if required): attorney nominated by the Montana Supreme Court		

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Research and Commercialization Technology Board (Commerce)		
Mr. Jim Davison, Anaconda	Governor	7/1/2013
Qualifications (if required): public representative		
Small Business Compliance Assistance Advisory Council (Environmental Quality)		
Ms. Michelle Bryan Mudd, Missoula	Governor	5/5/2013
Qualifications (if required): public representative		
Ms. Diana Vanek, Bozeman	Governor	5/5/2013
Qualifications (if required): public representative		
Mr. Carson Coate, Helena	Director	5/5/2013
Qualifications (if required): representative of the Department of Environmental Quality		
State Tribal Economic Development Commission (Commerce)		
Mr. Roger "Sassy" Running Crane, Browning	Governor	6/30/2013
Qualifications (if required): Blackfeet Tribe member		
Ms. Cheryl Reevis, Browning	Governor	6/30/2013
Qualifications (if required): Blackfeet Tribe alternate		
State Workforce Investment Board (Labor and Industry)		
Mr. Mike Grove, Helena	Governor	7/1/2013
Qualifications (if required): private sector representative		
Director Keith Kelly, Helena	Governor	7/1/2013
Qualifications (if required): veteran and a public sector representative		

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
State Workforce Investment Board (Labor and Industry) cont.		
Mr. Robert Miller, Dillon Qualifications (if required): section 166 representative	Governor	7/1/2013
Commissioner Connie Eissinger, Brockway Qualifications (if required): private sector representative	Governor	7/1/2013
Director Dore Schwinden, Helena Qualifications (if required): public sector representative	Governor	7/1/2013
Mr. Evan Barrett, Butte Qualifications (if required): Governor's representative	Governor	7/1/2013
Mr. Michael McGinley, Dillon Qualifications (if required): county commissioner	Governor	7/1/2013
Sen. Sherm Anderson, Deer Lodge Qualifications (if required): private sector representative	Governor	7/1/2013
Ms. Linda Woods, Darby Qualifications (if required): public sector representative	Governor	7/1/2013
Mr. Jeff Rupp, Bozeman Qualifications (if required): public sector representative	Governor	7/1/2013
Mr. John Cech, Billings Qualifications (if required): public sector representative	Governor	7/1/2013

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
State Workforce Investment Board (Labor and Industry) cont.		
Mr. Dave Crum, Great Falls Qualifications (if required): private sector representative	Governor	7/1/2013
Ms. Martina Copps, Broadus Qualifications (if required): private sector representative	Governor	7/1/2013
Mr. Thomas Curry, Billings Qualifications (if required): labor representative	Governor	7/1/2013
Mr. Michael DesRosier, Browning Qualifications (if required): county commissioner	Governor	7/1/2013
Mr. Kirk Hammerquist, Kalispell Qualifications (if required): private sector representative	Governor	7/1/2013
Ms. Jacquie Helt, Missoula Qualifications (if required): labor representative	Governor	7/1/2013
Ms. Maureen Kenneally, Butte Qualifications (if required): private sector representative	Governor	7/1/2013
Mr. Alan Skari, Chester Qualifications (if required): private sector representative	Governor	7/1/2013
Mrs. Sandi Miller, Helena Qualifications (if required): private sector representative	Governor	7/1/2013

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
State Workforce Investment Board (Labor and Industry) cont.		
Mr. Thomas McKenna, Lewistown Qualifications (if required): private sector representative	Governor	7/1/2013
Ms. Anna Whiting-Sorrell, Helena Qualifications (if required): public sector representative	Governor	7/1/2013
Mr. George Kipp, Browning Qualifications (if required): section 166 representative	Governor	7/1/2013
Superintendent Denise Juneau, Helena Qualifications (if required): public sector representative	Governor	7/1/2013
Ms. Vicki Judd, Missoula Qualifications (if required): private sector representative	Governor	7/1/2013
Mr. Henry Dykema, Red Lodge Qualifications (if required): private sector representative	Governor	7/1/2013
Mr. John DeMichiei, Roundup Qualifications (if required): private sector representative	Governor	7/1/2013
Mr. Nicholas Kujawa, Butte Qualifications (if required): private sector representative	Governor	7/1/2013
Ms. Tina Bundtrock, Great Falls Qualifications (if required): private sector representative	Governor	7/1/2013

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
State-Tribal Economic Development Commission (Commerce)		
Mr. Rodney Miller, Wolf Point	Governor	6/30/2013
Qualifications (if required): representative of the Fort Peck Assiniboine & Sioux Tribes		
Mr. Forrest Smith, Poplar	Governor	6/30/2013
Qualifications (if required): representative of the Fort Peck Assiniboine & Sioux Tribes		
Teachers' Retirement Board (Administration)		
Mr. Scott A Dubbs, Lewistown	Governor	7/1/2013
Qualifications (if required): administrator/member		
Telecommunications Access Services for Persons with Disabilities Committee (Public Health and Human Services)		
Mr. Ron Bibler, Great Falls	Governor	7/1/2013
Qualifications (if required): hearing disabled		
Ms. Linda Kirkland, Helena	Governor	7/1/2013
Qualifications (if required): agency representative		
Ms. Chris Caniglia, Helena	Governor	7/1/2013
Qualifications (if required): a nondisabled business person		
Mr. James Marks, Helena	Governor	7/1/2013
Qualifications (if required): agency representative		
Tourism Advisory Council (Commerce)		
Ms. Rhonda Fitzgerald, Whitefish	Governor	7/1/2013
Qualifications (if required): resident of Glacier Country		

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Tourism Advisory Council (Commerce) cont.		
Mr. Stan Ozark, Glasgow	Governor	7/1/2013
Qualifications (if required): resident of Missouri Country		
Mr. Bill McGladdery, Butte	Governor	7/1/2013
Qualifications (if required): resident of Goldwest Country		
Ms. Michelle Robinson, Billings	Governor	7/1/2013
Qualifications (if required): resident of Custer Country		
Mr. Dan Austin, Billings	Governor	7/1/2013
Qualifications (if required): resident of Southeast Montana		
Upper Clark Fork River Basin Remediation and Restoration Advisory Council (Justice)		
Mr. Jim Kambich, Butte	Governor	7/31/2013
Qualifications (if required): resident of the Upper Clark Fork River Basin		
Mr. Jon A. Krutar, Helena	Governor	7/31/2013
Qualifications (if required): resident of the Upper Clark Fork River Basin		
Director Mary Sexton, Helena	Governor	7/31/2013
Qualifications (if required): Director of the Department of Natural Resources and Conservation		
Director Richard Opper, Helena	Governor	7/31/2013
Qualifications (if required): Director of the Department of Environmental Quality		
Mr. William Rossbach, Missoula	Governor	7/31/2013
Qualifications (if required): resident of the Upper Clark Fork River Basin		

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Upper Clark Fork River Basin Remediation and Restoration Advisory Council (Justice) cont.		
Mr. Joe Maurier, Helena	Governor	7/31/2013
Qualifications (if required): Director of the Department of Fish, Wildlife and Parks		
Mr. Roy O'Connor, Missoula	Governor	7/31/2013
Qualifications (if required): resident of the Upper Clark Fork River Basin		
Mr. Elton Ringsak, Butte	Governor	7/31/2013
Qualifications (if required): resident of the Upper Clark Fork River Basin		
Ms. Katherine Eccleston, Anaconda	Governor	7/31/2013
Qualifications (if required): resident of the Upper Clark Fork River Basin		
Mr. Michael McLean, Anaconda	Governor	7/31/2013
Qualifications (if required): resident of the Upper Clark Fork River Basin		
Ms. Maureen Connor, Philipsburg	Governor	7/31/2013
Qualifications (if required): resident of the Upper Clark Fork River Basin		
Water Judge of the Clark Fork River Basin Water Division (District Court)		
Judge Ted Mizner, Anaconda	elected	6/30/2013
Qualifications (if required): none specified		
Water Judge of the Lower Missouri River Basin Water Division (District Court)		
Judge David Cybulski, Plentywood	elected	6/30/2013
Qualifications (if required): none specified		

VACANCIES ON BOARDS AND COUNCILS -- MAY 1, 2013 THROUGH JULY 31, 2013

Board/current position holder	Appointed by	Term end
Water Judge of the Upper Missouri River Basin Water Division (District Court)		
Judge Jeffrey Sherlock, Helena	elected	6/30/2013
Qualifications (if required): none specified		
Water Judge of the Yellowstone River Basin Water Division (District Court)		
Judge Joe L. Hegel, Forsyth	elected	6/30/2013
Qualifications (if required): none specified		
Western Interstate Commission for Higher Education (Governor)		
Ms. Sheila Stearns, Helena	Governor	6/19/2013
Qualifications (if required): representative of higher education		