

The department has determined that the proposed program changes presented in this notice are not appropriate for performance-based measurement and therefore are not subject to the performance-based measures requirement of 53-6-196, MCA.

/s/ Geralyn Driscoll
Geralyn Driscoll, Attorney
Rule Reviewer

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

Certified to the Secretary of State April 11, 2016.

The department is proposing to amend the fiscal year to the current fiscal year.

37.40.315

The department is proposing to amend the wording in the rule relative to the staffing report requirements.

37.40.361

The department is proposing to amend the fiscal year to the current fiscal year.

37.40.301, 37.40.304, 37.40.307, 37.40.326, 37.40.330, 37.40.336, 37.40.345, and 37.40.352

The department is proposing to amend the wording from "individual with Mental Retardation (ICF/MR) to "individuals with Intellectual Disabilities (ICF/IID)." These proposed amendments reflect the current language reference from the Centers for Medicare and Medicaid (CMD) for this category of service.

Fiscal Impact

The total state and federal funding available for state fiscal year (SFY) 2017 for rate calculation purposes utilizing the funding in HB2 is currently projected at \$145,987,024 which is comprised of \$15,704,708 in state special revenue, \$35,445,757 in state general funds, and \$94,836,559 in federal funds when the provider rate increases are included.

The ongoing funding of lump sum payments to providers for direct care workers and ancillary staff consists of \$2,445,820 of state general funds and \$4,540,242 in federal funds for a total appropriation of \$6,986,062 for the nursing facility direct care worker wage program. This total funding for direct care wages includes an additional \$0.25 per hour increase of \$1,502,478 in new funding for SFY 2017.

The estimated total funding available for SFY 2017 for nursing facility reimbursement is estimated at approximately \$178,738,473 of combined state funds and federal funds, including \$32,751,449 in patient contributions. These numbers do not include at risk provider funds or direct care wage funding.

Anticipated days for SFY 2016 are 1,015,234 using estimates of caseload adopted by the Legislature.

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 \$20,150,700 in total funds of which \$7,054,760 comes from state special revenue funds and approximately \$13,095,940 comes from federal funding sources.

Seventy-seven nursing facility providers participated in the Medicaid nursing facility payment program and approximately 4,669 recipients received services in nursing facilities under Medicaid.

The analysis of Medicaid nursing facility rates that is annually conducted by Myers and Stauffer, LC shows that in SFY 2015 Montana Medicaid on average is reimbursing approximately 94% of the cost of providing nursing facility services. The department considered the impact of the rate changes on efficiency, economy, quality of care, and access to Medicaid services and concluded that the rates are still sufficient to meet the requirements of 42 USC 1396a (a) (30(A)).

5. The department intends to amend these rules effective July 1, 2016.

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 20, 2016.

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.

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

12. Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies, make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

The department has determined that the proposed program changes presented in this notice are not appropriate for performance-based measurement and therefore are not subject to the performance-based measures requirement of 53-6-196, MCA.

/s/ Valerie Bashor
Valerie Bashor, Attorney
Rule Reviewer

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

Certified to the Secretary of State April 11, 2016.

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

In the matter of the amendment of)
ARM 37.85.406, 37.86.2803,)
37.86.2907, 37.86.2916, and)
37.86.4401 pertaining to hospitals,)
inpatient hospitals, rural health)
clinics, and federally qualified health)
centers)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On May 12, 2016, at 9:30 a.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on May 5, 2016, 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:

37.85.406 BILLING, REIMBURSEMENT, CLAIMS PROCESSING, AND PAYMENT (1) through (17) remain the same.

(18) Except as otherwise provided in the rules of the department which pertain to the method of determining payment rates for claims of recipients members who have Medicare and Medicaid coverage (cross-over claims), the Medicaid allowed amount for Medicare covered services is:

(a) for facility based providers who generally bill on the ~~UB-92~~ UB-04 billing form, for covered medical services the full Medicare coinsurance and deductible as defined by the Medicare carrier;

(i) through (21) remain the same.

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

IMP: 53-2-201, 53-6-101, 53-6-111, 53-6-113, 53-6-131, 53-6-149, MCA

37.86.2803 ALL HOSPITAL REIMBURSEMENT, COST REPORTING

(1) Allowable costs will be determined in accordance with generally accepted accounting principles as defined by the American Institute of Certified Public Accountants.

(a) remains the same.

(b) For cost report periods occurring on or after May 1, 2010, such definition of allowable costs is further defined in accordance with the Medicare Provider Reimbursement Manual, CMS Publication 15, Form 2552-10, ~~Transmittal 2~~, subject to the exceptions and limitations provided in the department's administrative rules.

(c) For cost report periods occurring prior to May 1, 2010, such definition of allowable costs is further defined in accordance with the Medicare Provider Reimbursement Manual, CMS Publication 15, Form 2552-96, ~~Transmittal 25~~, ~~last updated April 2011~~, subject to the exceptions and limitations provided in the department's administrative rules.

(d) 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, 53-6-149, MCA

37.86.2907 INPATIENT HOSPITAL PROSPECTIVE REIMBURSEMENT, APR-DRG PAYMENT RATE DETERMINATION (1) The department's APR-DRG prospective payment rate for inpatient hospital services is based on the classification of inpatient hospital discharges to APR-DRGs. The provider reimbursement rates for inpatient hospital services, except as otherwise provided in ARM 37.85.206, is stated in the department's APR-DRG fee schedule adopted and effective at ARM 37.85.105. The procedure for determining the APR-DRG prospective payment rate is as follows:

(a) and (b) remain the same.

(c) The department computes a Montana average base price per case. This base price includes in-state and out-of-state distinct part rehabilitation units and long term care (LTC) facilities. The effective date and base rate amount is adopted and effective as provided at ARM 37.85.105. Disproportionate share payments are not included in this price.

(d) The department computes a base price for long-term care (LTC) facilities. The effective date and base-rate amount are adopted and effective as provided at ARM 37.85.105. Disproportionate share payments are not included in this price.

(d) through (f) remain the same, but are renumbered (e) through (g).

(h) Inpatient reimbursement will be calculated at the lessor of the assigned APR-DRG rate or the claim billed charges.

(2) The department adopts and incorporates by reference the APR-DRG Table of Weights and Thresholds adopted and effective at ARM 37.85.105. The Montana Medicaid APR-DRG relative weight values, average national length of stay (ALOS), outlier thresholds, and APR grouper version ~~29~~ 33 are contained in the APR-DRG Table of Weights and Thresholds which are adopted and effective as provided at ARM 37.85.105 and published by the department. Copies 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.

