

24.189.633 TEMPORARY PERMIT (1) through (10) remain the same.

~~(11) A person who has held a temporary permit in the past may be granted another temporary permit only upon a justifiable excuse and when good cause appears, and then only if it is shown that the refusal of a temporary permit would preclude the person from licensure, because, without it, the person would be unable to obtain the necessary work samples for the oral examination. A temporary practice permit holder must use reasonable diligence to obtain the necessary work samples for purposes of gaining licensure. Regardless of whether work samples are submitted to or approved by the board, a temporary practice permit shall terminate no later than two years following issuance.~~

AUTH: 37-1-131, 37-1-319, 37-17-202, MCA

IMP: 37-1-131, 37-1-305, MCA

REASON: The board is amending (11) to place a cap on the duration of a temporary license. Following input by licensing and legal staff regarding potential abuse of the temporary permit process, the board determined this change will provide clarification to applicants and enable the board to address abuses through the disciplinary process.

4. The rules proposed to be repealed are as follows:

24.189.404 PREPARATION OF LICENSES

AUTH: 37-17-202, MCA

IMP: 37-17-305, MCA

REASON: The board is repealing this rule as unnecessary since the department issues all licenses using a standardized process for all professional and occupational boards.

24.189.407 RENEWALS

AUTH: 37-1-131, 37-1-141, 37-17-202, MCA

IMP: 37-1-141, MCA

REASON: The board is repealing this unnecessary rule because the department administers a standardized renewal process for all professional and occupational licensure boards, and this rule merely references the department rules on renewals.

24.189.2401 COMPLAINT PROCEDURE

AUTH: 37-17-202, MCA

IMP: 37-1-308, 37-1-309, MCA

REASON: The board is repealing this unnecessary rule because the complaint procedure is adequately addressed in statute and should not be unnecessarily repeated in rule per the Montana Administrative Procedure Act.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Psychologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2005, or by e-mail to dlibspsy@mt.gov, and must be received no later than 5:00 p.m., September 2, 2016.

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

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Psychologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2005; e-mailed to dlibspsy@mt.gov; or by completing a request form at any rules hearing held by the agency.

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

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.189.401, 24.189.601, 24.189.604, 24.189.610, and 24.189.633 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.189.404, 24.189.407, and 24.189.2401 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Psychologists, 301 South Park Avenue, P.O. Box 200513,

Helena, Montana 59620-0513; telephone (406) 841-2258; facsimile (406) 841-2005; or e-mail dlibspsy@mt.gov.

10. L'Joy Griebenow, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF PSYCHOLOGISTS
JAMES MURPHEY, PH.D, CHAIRPERSON

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

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

Certified to the Secretary of State July 25, 2016

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.34.3005 and 37.86.3607) PROPOSED AMENDMENT
pertaining to the reimbursement of)
services provided to persons who are)
recipients of developmental)
disabilities services funded by)
Medicaid)

TO: All Concerned Persons

1. On August 25, 2016, at 2:30 p.m., the Department of Public Health and Human Services will hold a public hearing in Room 207 of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on August 17, 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:

37.34.3005 REIMBURSEMENT FOR SERVICES OF MEDICAID FUNDED DEVELOPMENTAL DISABILITIES HOME AND COMMUNITY-BASED SERVICES (HCBS) WAIVER PROGRAMS (1) remains the same.

(2) The department adopts and incorporates by this reference the rates of reimbursement for the delivery of services and items available through each Home and Community-Based Services Waiver Program as specified in the Montana Developmental Disabilities Program Manual of Service Rates and Procedures of Reimbursement for Home and Community-Based Services (HCBS) 1915c 0208, ~~4037~~, and 0667 Waiver Programs, effective ~~July 1, 2015~~ July 1, 2016. A copy 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 <http://dphhs.mt.gov/dsd/developmentaldisabilities/DDPratesinf>.

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

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

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 the Montana Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures for Developmental Disabilities Case Management Services for Persons with Developmental Disabilities Who Are 16 Years of Age or Older or Who Reside in a Children's Community Home, dated ~~July 1, 2015~~ July 1, 2016.

(2) The department adopts and incorporates by this reference the Montana Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures for Developmental Disabilities Case Management Services for Persons with Developmental Disabilities Who Are 16 Years of Age or Older or Who Reside in a Children's Community Home, dated ~~July 1, 2015~~ July 1, 2016. A copy 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 <http://dphhs.mt.gov/dsd/developmentaldisabilities/DDPratesinf>.

AUTH: 53-6-113, MCA

IMP: 53-6-101, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing the amendment of ARM 37.34.3005 and 37.86.3607. These two rules pertain to the reimbursement of services provided to persons who are recipients of developmental disabilities services funded by the State of Montana with Medicaid monies. These proposed amendments are necessary to increase the reimbursement rates to incorporate state fiscal year (SFY) 2017 additional funding appropriated through House Bill 2 (HB2) of the 64th Montana State Legislature. These proposed amendments also are necessary to implement needed changes in the texts of the two manuals that are incorporated by reference in these rules.

ARM 37.34.3005

The proposed rule amendments have two purposes listed below.

1. The first purpose is to change the title of the manual referenced within the rule to the Montana Developmental Disabilities Program Manual of Service Rates and Procedures of Reimbursement for Home and Community-Based Services (HCBS) 1915c 0208 and 0667 Waiver Programs, per notice given to the Centers for Medicare and Medicaid (CMS) of the program's intent to discontinue the 1037 waiver effective September 30, 2015, and CMS's subsequent approval of the discontinuation of that waiver option. The 1037 Supports for Community Working and Living waiver provided day habilitation, homemaker, live-in caregiver, personal

care, residential hab, respite, supported employment, personal supports, supports brokerage, adult companion, educational services, environmental mods/adaptive equipment/specialized medical equipment and supplies, health/health maintenance/safety supports, individual goods and services, PERS, private duty nursing, social/leisure and recreational supports, and transportation for individuals w/MR/DD ages 18 - no max age. The department chose to discontinue this waiver and move the recipients of the waiver into the 0208 comprehensive waiver. The termination of the waiver was due to under-utilization of the waiver. The 0208 waiver provides all the same services as the 1037 waiver, and persons transferred to the 0208 waiver experienced no changes or losses in services.

2. The second purpose is to incorporate into the rule this new edition of the manual, to be dated July 1, 2016, which includes changes in the rates of reimbursement and in certain textual provisions that are necessitated by additional legislative appropriations for the reimbursement of the Medicaid funded home and community services and by changes in the waivers available for delivery of the Medicaid funded home and community services entered into with the federal Centers for Medicare and Medicaid Services (CMS).

ARM 37.86.3607

The purpose of this proposed amendment is to incorporate into the rule a new edition of the Montana Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures for Developmental Disabilities Case Management Services for Persons with Developmental Disabilities Who Are 16 Years of Age or Older or Who Reside in a Children's Community Home, to be dated July 1, 2016. The proposed amendments include a change in the rate of reimbursement that is necessitated by additional legislative appropriations for the reimbursement of the Medicaid funded case management services. This proposed change in reimbursement is only applicable to the provision of case management services that are contracted for by the department and is not applicable to the reimbursement of case management services delivered by state employees.

Amendments to Manuals

"Montana Developmental Disabilities Program Manual of Service Rates and Procedures of Reimbursement for Home and Community-Based Services (HCBS) 1915c 0208, 1037, and 0667 Waiver Programs"

1. The department is proposing to remove references of the 1037 waiver within this manual, per notice given to the Centers for Medicare and Medicaid (CMS) of the program's intent to discontinue that waiver effective September 30, 2015, and CMS's subsequent approval of the discontinuation of that waiver option. This includes removing reference of the 1037 waiver in the name of the manual to the Montana Developmental Disabilities Program Manual of Service Rates and Procedures of Reimbursement for Home and Community-Based Services (HCBS) 1915c 0208 and 0667 Waiver Programs.

2. The proposed effective date of the revised manual is July 1, 2016.
3. The proposed reimbursement fees include the amount appropriated by the 64th Montana State Legislature for provider rate increases.

"Montana Developmental Disabilities Program Manual of Service Reimbursement Rates and Procedures for Developmental Disabilities Case Management Services for Persons with Developmental Disabilities Who Are 16 Years of Age or Older or Who Reside in a Children's Community Home"

1. The proposed effective date of the revised manual is July 1, 2016.
2. The proposed reimbursement fee includes the amount appropriated by the 64th Montana State Legislature for provider rate increases.

Fiscal Impact

The fiscal impact of the proposed changes to ARM 37.34.3005, implementing provider rate increases for DD providers will increase total expenditures to providers for state fiscal year 2016 by the sum of \$3,694,445. These increased rates affect approximately 70 corporate providers of services.

The fiscal impact of the proposed change to ARM 37.86.3607, implementing provider rate increases for contracted providers of developmental disabilities case management services will increase total expenditures to those providers for state fiscal year 2017 by the sum of \$127,464 in expenditures. These increased rates affect approximately 4 contracted agencies.

5. The department intends to apply these rule amendments retroactively to July 1, 2016. A retroactive application of the proposed rule amendments does not result in a negative impact to any affected party.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., September 2, 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/ 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 July 25, 2016.

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

In the matter of the adoption of New Rule I, the amendment of ARM 37.80.101, 37.80.102, 37.80.201, 37.80.202, 37.80.205, 37.80.206, and 37.80.301, and the repeal of ARM 37.80.305 and 37.80.306 pertaining to child care assistance provided through the Best Beginnings Child Care Scholarship (BBCCS) Program) NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION, AMENDMENT, AND REPEAL

TO: All Concerned Persons

1. On August 25, 2016, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in Room 207 of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed adoption, amendment, and repeal of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on August 17, 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 rule as proposed to be adopted provides as follows:

NEW RULE I LEGALLY CERTIFIED PROVIDERS: CERTIFICATION REQUIREMENTS AND PROCEDURES (1) The applicant and all adults who reside in the applicant's home must provide authorization for criminal, FBI, state and national sexual/violent offender registry, and child protective services background checks for the period of time from the present date back to the date of the individual's 18th birthday.

(2) If the background checks reveal any of the following, the application will be denied:

- (a) Child Protective Services (CPS) substantiation against the applicant or other adult in the household, or an open CPS case against the applicant or adult in the household;
- (b) conviction of a crime involving sex;
- (c) conviction of a crime involving violence;
- (d) conviction of a crime involving drugs;

- (e) conviction of driving under the influence (DUI) within three years of the application date (applies only to the applicant, not the other adults in the household);
 - (f) conviction of child endangerment;
 - (g) conviction of a crime involving a weapon, including firearms or knives;
 - (h) conviction of any crime that bears upon the applicant's fitness to have responsibility for the safety and well-being of children; and
 - (i) pending charges by a law enforcement agency for a crime that would otherwise be a disqualifying record, if convicted.
- (3) An application will also be denied for the following reasons:
- (a) applicant fails to provide all necessary documentation needed to determine eligibility within the 30-day time limit;
 - (b) parent and provider reside at the same residence and the proposed caregiver is not an approved relative caregiver;
 - (c) applicant's statement of health form reveals the applicant or other adult in the household has an ongoing illness that bears upon the applicant's ability to have responsibility for the safety and well-being of children;
 - (d) applicant discriminates in the provision of child care services on the basis of the race, sex, religion, creed, color, or national origin of the parent or the child; or
 - (e) the background check process has exceeded 90 days.
- (4) Legally certified providers must also meet the following requirements to be certified under this chapter:
- (a) be 18 years of age or older;
 - (b) within 60 calendar days of approval, attend a training or orientation session provided or approved by the department that includes health and safety issues;
 - (c) limit the care they provide to a period less than 24 hours in any day;
 - (d) care for no more than two children at a time, unless the children are from the same household. If the children are from separate households, then a legally certified provider may care for no more than two children;
 - (e) must provide appropriate verification of the attestations and other requirements in this rule upon request from the department. The department may deny eligibility based upon inaccuracy or falsification of such attestations, and/or failure to fulfill the other requirements of this rule. Prior to and during certification, the department may also require disclosure to parents of information known to the department involving any acts of the provider bearing on the provider's ability to safely care for children; and
 - (f) only legally certified providers may transport children while in their care.
- (5) Legally certified providers are not eligible to be reimbursed for child care services provided while home schooling.

AUTH: 52-2-704, MCA

IMP: 52-2-704, 52-2-713, 52-2-721, 52-2-722, 52-2-731, MCA

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

37.80.101 PURPOSE AND GENERAL LIMITATIONS (1) and (2) remain the same.

(3) The Child Care Assistance Program will be administered in accordance with:

(a) the requirements of federal law governing the Child Care and Development Block Grant Act of 1990, ~~section 5082 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508 as amended and 2014~~, codified at 42 USC 9858 et seq.), and 45 CFR parts 98 and 99, child care and development fund, adopted July 24, 1998; and

(b) ~~The~~ the Montana Child Care Manual, dated April 9, 2016 September 30, 2016, is adopted and incorporated by this reference. The manual contains the policies and procedures utilized in the implementation of the department's Child Care Assistance Program. A copy of the ~~Montana Child Care Manual~~ manual is available at each child care resource and referral agency; at the Department of Public Health and Human Services, Human and Community Services Division, 111 N. Jackson St., P.O. Box 202925, Helena, MT 59620-2925; and on the department's web site at www.childcare.mt.gov.

AUTH: 52-2-704, 53-4-212, MCA

IMP: 52-2-702, 52-2-704, 52-2-713, 52-2-731, 53-2-201, 53-4-211, 53-4-601, 53-4-611, 53-4-612, MCA

37.80.102 DEFINITIONS As used in this chapter, the following definitions apply:

(1) "Absent days" means a payment to assist households when a child care provider requires payment for a child's absence.

~~(4)~~ (2) "Authorization of ~~S~~services" means the span of time, number of hours per week, and schedule that an eligible child is approved for care at a particular provider's facility. In addition, it indicates the monthly payment amount that the family is approved to receive for the indicated child at the indicated facility. The authorization of services is used to create the certification plan.

~~(2)~~ (3) "Certification ~~P~~plan" means the document prepared by the department, or its agent, that states the amount of child care assistance to be paid and includes any additional information required by the department. This document is generated after the authorization of services has been created.

(3) through (10) remain the same, but are renumbered (4) through (11).

~~(44)~~ (12) "Federal poverty guidelines (FPG)" or "Federal ~~P~~poverty ~~L~~level (FPL)" means the poverty guidelines published by the U.S. Department of Health and Human Services based on information compiled by the U.S. Bureau of the Census. Upon request, a copy of the guidelines is available from the Department of Public Health and Human Services, Human and Community Services Division, 111 N. Jackson St., P.O. Box 202952, Helena, MT 59620-2925.

(12) and (13) remain the same, but are renumbered (13) and (14).

(15) "Graduated eligibility" means graduated phaseout as that term is used in the Child Care and Development Block Grant Act of 2014 at 42 USC 9858c(c)(2)(N)(iv).

(14) and (15) remain the same, but are renumbered (16) and (17).

~~(16)~~ (18) "Legally certified provider" means a person providing child care under this chapter, who qualifies to receive child care assistance without meeting the requirement of ARM Title 37, chapter 95. A legally certified provider may care for up to two children or all the children from the same household, and may provide child care in the home of the parents an individual certified under ARM Title 37, chapter 95 and selected by a parent or guardian to receive payment for child care for no more than two children unless all the children are from the same household.

(17) through (22) remain the same, but are renumbered (19) through (24).

AUTH: 52-2-704, 53-4-212, MCA

IMP: 52-2-704, 52-2-713, 52-2-721, 52-2-722, 52-2-723, 52-2-731, 53-2-201, 53-4-211, 53-4-601, 53-4-611, 53-4-612, MCA

37.80.201 NONFINANCIAL REQUIREMENTS FOR ELIGIBILITY AND PRIORITY FOR ASSISTANCE (1) In addition to the income requirements of ARM 37.80.202, the following nonfinancial requirements must be met in order for payments under this chapter to be made:

(a) remains the same.

(b) The monthly minimum hourly work requirement does not apply to:

(i) through (v) remain the same.

(vi) a parent, in a two-parent household, who is severely disabled and unable to care for their child; and

(vii) parents who are homeless; and

(vii) remains the same, but is renumbered (viii).

(2) ~~A Households~~ household which ~~are~~ is not receiving cash assistance funded by TANF may be eligible for child care assistance under this chapter while a parent is participating in education or training reasonably expected to lead to gainful employment if:

(a) and (b) remain the same.

(3) Child care assistance under this chapter for parents who are pursuing training or education is subject to the following limitations and requirements:

(a) through (4) remain the same.

~~(5) The parents may apply for authorization/reauthorization under this chapter at a child care resource and referral agency.~~

~~(6)~~ (5) Due to limited funding for child care assistance, some households which meet all requirements for eligibility may not receive benefits. If there are insufficient funds to provide benefits to all eligible households, priority for benefits will be are determined as follows:

(a) remains the same.

(b) ~~A Households~~ household containing a child with special needs ~~are~~ is guaranteed child care when otherwise eligible for child care assistance under ARM 37.80.201 through 37.80.502.

(c) ~~A Households~~ household headed by a teen parent ~~are~~ is guaranteed child care when otherwise eligible for child care assistance under ~~subchapters 2, 3, and 5~~ ARM 37.80.201 through 37.80.502.

(d) and (e) remain the same.

(7) through (11) remain the same, but are renumbered (6) through (10).

revised edition of the manual would become effective September 30, 2016. The proposed amendment is necessary to adopt the prospective version of the manual into the Administrative Rules of Montana. The following constitute the department's proposed revisions to the manual:

The department is proposing throughout the manual to remove the term "Certified Enrollment" and replace it with "Absent Days." Certified Enrollment is not the correct term to characterize allowed payments for a child's temporary absence. Absent Days is a more appropriate term to describe the daily payment for a child's temporary absence.

Policy Section 1-3: Overview-Best Beginnings Child Care Scholarship-Definitions

The definition for "Absent Days" is being added, and the definition for "Certified Enrollment" is being removed.

The CCDBG Act of 2014 at 42 USC 9858c(c)(2)(N)(iv) requires graduated phase out for working parents whose income has increased slightly. The BBCCS program refers to the requirement as the "Graduated Eligibility program." Because the federal government uses the term "Graduated Phaseout," the department proposes adding a definition of the term "Graduated Eligibility" in the manual to provide consistency between the manual and federal requirements.

The CCDBG Act of 2014 includes requirements for homeless children and families. For consistency with reporting and eligibility requirements, the department proposes adding to the manual the definition of "Homeless" that is used in the yearly federal report of child care assistance demographics, the ACF-801.

Policy Section 1-4: Overview-Best Beginnings Child Care Scholarship-Scholarship Rates

The General Rule subsection is being proposed for revision because of a previous policy revision to Policy Section 2-3: Non-TANF Activity Requirements, effective April 9, 2016. A parent who attends school full-time does not have a work requirement.

The current version of the Child Care Provider Market Rate Survey subsection provides that a market child care provider rate survey is to be conducted annually. The Child Care and Development Fund State Plan requires that the survey be conducted every three years. The CCDBG Act of 2014 does not require an annual survey. The department therefore proposes revising the Child Care Provider Market Rate Survey subsection to require that the market child care provider rate survey be conducted every three years.

The department proposes removing language referring to data from the Child Care Under the Big Sky (CCUBS) computer system because that data does not satisfy new requirements that the market rate survey be conducted in a statistically reliable

and valid manner. The rates of child care providers who do not participate in the BBCCS program are not included in CCUBS data.

The department proposes removing language describing times of the year when the market rate is conducted and is effective because the market rate survey does not have to be completed yearly.

The department proposes revising the subsection entitled ECSB Pays the Lower Rate because the ECSB now serves Child Care Resource and Referral (CCR&R) regions, rather than districts.

The department proposes removing the statement about child care providers reporting a current rate because that information is already included in the "Provider Shall Report Rate Changes" subsection.

The name of the manual was changed to ECSB Procedure Handbook when the manual was updated effective April 9, 2016.

The department proposes revising language about copayments for child care to make it clear that providers may charge copayments for child care that exceed the reimbursement rate, and that if this occurs, parents are responsible for paying the amount that exceeds the reimbursement rate.

The department proposes revising the "Provider Must Report Rates and Associated Changes" subsection to clarify that a child care provider must report to the CCR&R changes the provider makes in rates and billing to a parent. The department proposes revising manual language regarding licensure because the license the department issues does not result in a change in the provider's rate.

The department proposes adding language that would allow providers to request exceptions to the effective rate change date and, if providers present a reasonable reason for doing so, allow ECSB to make exceptions.

Policy Section 2-2: Non-TANF Child Care Eligibility-Household Requirements

The federal Child Care and Development Block Grant Act of 2014 codified at 42 USC 9858c(c)(2)(I)(i)(I), requires that homeless children receive child care assistance during a grace period while their families are taking necessary actions to comply with federal health and safety requirements, including immunization requirements. The department proposes including language in the Homelessness subsection which complies with these federal requirements for such a grace period.

Policy Section 2-4: Non-TANF Child Care Eligibility-Household Income

The CCDBG Act of 2014 at 42 USC 9858n(4)(B), establishes a resource test for eligibility. The department proposes adding language to the General Rule subsection consistent with this requirement.

Policy Section 2-7: Non-TANF Child Care Eligibility-Redetermination

The department proposes adding a new subsection entitled "Graduated Eligibility" to comply with the requirements of the CCDBG Act of 2014 at 42 USC 9858c(c)(2)(N)(iv). This section of the act requires child care assistance to continue for a period of time for children of parents who are working or attending job training or educational programs and whose family income exceeds the non-TANF income limits but does not exceed 85% of the state median income for a family of the same size.

Policy Section 6-1: Serving the Family-Child Care Referrals

The department proposes changing the references throughout Policy Section 6-1 from "Child Care Resource and Referral (CCR&R) centralized" to "regional CCR&R" agencies. On July 1, 2016, child care referral services contracts changed from a centralized CCR&R agency to regional CCR&R agencies so that parents and child care providers would have more access to child care referrals at a local level.

Policy Sections 6-2 and 6-2a

These sections are being deleted because the subject matter relates to legally certified providers.

Policy Section 6-6: Absent Days & Continuity of Care

The program proposes changing the name of the "Certified Enrollment" subsection to "Absent Days" to comply with the CCDBG Act of 2014 at 42 USC 9858c(c)(2)(S)(ii), which requires payment practices "that support the fixed costs of providing child care services by delinking provider reimbursement rates from an eligible child's occasional absences due to holidays or unforeseen circumstances such as illness."

The program proposes two changes to fulfill the federal requirement: (1) an increase in the number of Absent Days available and (2) language about how Absent Days are claimed or not claimed for payment purposes.

The program proposes a clarification about how the Child Care Under the Big Sky (CCUBS) computer system determines a full day of child care services.

The program proposes adding language to the Grace Period subsection specifying that a grace period is available during Graduated Eligibility in order to comply with a requirement of the CCDBG Act of 2014 at 42 USC 9858c(c)(2)(N)(iv).

The same benefits should be applied to Graduated Eligibility because Graduated Eligibility must meet all non-TANF eligibility requirements other than the income cap.

A grace period is an appropriate benefit that provides continuity of care when a parent loses a job.

ARM 37.80.102

The department proposes amending ARM 37.80.102 to add definitions for the terms "absent days" and "graduated eligibility." Both terms are used in rule changes the department is proposing to implement the CCDBG Act of 2014. "Absent days" is explained at ARM 37.80.206. "Graduated eligibility" is explained at ARM 37.80.202. Adding definitions for these new terms makes the administrative rules easier to use and understand.

ARM 37.80.201

The department proposes amending ARM 37.80.201 to provide that a monthly minimum hourly work requirement does not apply to a homeless parent in a household. The department proposes this amendment to comply with the CCDBG Act of 2014, codified at 42 USC 9858c(c)(2)(I)(i)(I), which requires a grace period during which the parent of a homeless child does not have to meet a monthly minimum hourly work requirement. This will allow the family child care while the parent seeks work and long term shelter. The department considers 90 days an appropriate amount of time for homeless children to meet immunization requirements and their parents to meet eligibility requirements.

ARM 37.80.202

The CCDBG Act of 2014 at 42 USC 9858c (c)(2)(N)(iv), requires a graduated phaseout period during which children are allowed continued child care assistance when the family income exceeds program eligibility. The department proposes amending the rule to add the criteria for graduated eligibility to comply with this federal requirement. A household is eligible for the non-TANF eligibility program if household income is below 150% of the Federal Poverty Guideline (FPG). The proposed Graduated Eligibility program allows households with increases in income between 150% and 185% of FPG to remain in the program for six months.

The department proposes amending the rule to include language consistent with 42 USC 9858n(4)(B).

ARM 37.80.205

The department proposes amending ARM 37.80.205 to consistently use the term "absent days" instead of "certified enrollment." ARM 37.80.205 cross references ARM 37.80.206, which the department is proposing to amend to change the process for reimbursing a provider when an eligible child is not present. The department is proposing to use an absent days method instead of a certified enrollment method. The reason for this change is explained at ARM 37.80.206.

ARM 37.80.206

The CCDBG Act of 2014 at 42 USC 9858c (c)(2)(S)(ii) requires payment practices "that support the fixed costs of providing child care services by delinking provider reimbursement rates from an eligible child's occasional absences due to holidays or unforeseen circumstances such as illness." To comply with this requirement, the department proposes changing the name of the current "Certified Enrollment" section to "Absent Days" and increasing the number of days a child care provider may be reimbursed for a child's temporary absences. This increase in allowed absent days will result in an increased payment for the fixed costs of making child care available to the parent.

ARM 37.80.301

The department is transferring duties related to the category of child care providers known as "legally certified providers" from the Early Childhood Services Bureau (ECSB) to the Licensing Bureau of the department's Quality Assurance Division (QAD). This proposed rule change is necessary to implement that change. See explanation at New Rule I.

ARM 37.80.305 and 37.80.306

The department is transferring duties related to the category of child care providers known as "legally certified providers" from the Early Childhood Services Bureau (ECSB) to the Licensing Bureau of the department's Quality Assurance Division (QAD). This proposed rule change is necessary to implement that change. See explanation at New Rule I.

Fiscal Impact

The department expects the proposed rules will not have a fiscal impact. All proposed rules will be funded within the current budget of the Best Beginnings Child Care Scholarship program.

As of March 2016, there were 2,085 Non-TANF families, 338 TANF families, and 737 children with CPS receiving child care assistance. A total of 4,691 unduplicated children were receiving child care assistance.

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., September 2, 2016.

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.

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

13. The requirements of 53-6-196, MCA, do not apply because child-care assistance is not a Medicaid service.

/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 July 25, 2016.

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 37.86.1005 pertaining to the) PROPOSED AMENDMENT
removal of dental orthodontia service)
lifetime limits in Medicaid dental)
services)

TO: All Concerned Persons

1. On August 25, 2016, at 9:00 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 of the above-stated rule.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on August 17, 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 rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

37.86.1005 DENTAL SERVICES, REIMBURSEMENT (1) through (5) remain the same.

~~(6) Payment for orthodontia is limited to an overall lifetime cap of \$7,000 for interceptive and full band orthodontia phases unless otherwise provided by these rules. Services included in the separate phases including monthly visits, are as listed in the department's orthodontic coverage and reimbursement guidelines. Surgeries are not included in this lifetime cap.~~

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

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing an amendment to ARM 37.86.1005(6) regarding the removal of dental orthodontia service lifetime limits. This rule is being updated to match the guidelines for children under the Early Periodic Screening Diagnostic and Treatment (EPSDT) services

program guidelines. It is necessary for the department to provide this update to the rule by removing language informing members there is not an overall lifetime cap.

ARM 37.86.1005

This proposed amendment removes language that limits payment for orthodontia services to an overall lifetime cap of \$7,000 for interceptive and full band orthodontia phases. All orthodontia service requests require prior authorization for medical necessity. When medical necessity criteria are met, as per EPSDT guidelines, all services are provided. These proposed changes are necessary to provide clarity to providers and members in regards to program benefits and rules. The department has noted an inconsistency with regard to limits placed on EPSDT services. This simple rule change corrects and clarifies this administrative rule.

Fiscal Impact

No fiscal impact is anticipated due to this rulemaking.

5. The department intends to apply this rule amendment retroactively to July 1, 2016. A retroactive application of the proposed rule amendment does not result in a negative impact to any affected party.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Kenneth Mordan, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail dphhslegal@mt.gov, and must be received no later than 5:00 p.m., September 2, 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 rule 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/ Brenda K. Elias
Brenda K. Elias
Rule Reviewer

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

Certified to the Secretary of State July 25, 2016.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARINGS ON
ARM 42.2.705 pertaining to) PROPOSED AMENDMENT
alternative business office hours in)
qualified county offices)

TO: All Concerned Persons

1. On the following dates, at the time and location listed, the Department of Revenue will hold public hearings to consider the proposed amendment of the above-stated rule:

August 29, 2016, at 11 a.m., in the Carter County Courthouse, located at 214 Park Street, Ekalaka, Montana; and

August 30, 2016, at 10 a.m., in the Wheatland County Courthouse, located at 201 A Avenue, NW, Harlowton, Montana.

2. The Department of Revenue will make reasonable accommodations for persons with disabilities who wish to participate in these public hearings or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5 p.m. on August 15, 2016, to advise us of the nature of the accommodation you need. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

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

42.2.705 ALTERNATIVE COUNTY BUSINESS OFFICE HOURS

(1) and (2) remain the same.

(3) Counties that meet the conditions provided for in statute are listed below, along with their established alternative business office hours:

(a) and (b) remain the same.

(c) Carter County business office hours 8 a.m. to 5 p.m. Monday ~~through~~ and Wednesday;

(d) through (f) remain the same.

~~(g) Granite County business office hours 8 a.m. to 5 p.m. Monday, Tuesday, and Thursday;~~

(h) through (q) remain the same, but are renumbered (g) through (p).

~~(r)(q) Wheatland County business office hours 8 a.m. to 5 p.m. Monday, Tuesday, and Friday~~ through Wednesday.

(4) remains the same.

AUTH: 2-16-117, 15-1-201, MCA

IMP: 2-16-117, MCA

REASON: The department proposes amending ARM 42.2.705 to correct an error in the hours listed for Carter County; to change the business office hours in Wheatland County; and to remove Granite County from the rule. Details are as follows.

The department proposes amending (3)(c) to align the hours published in the rule with the actual hours of operation in the Carter County business office as established in 2013. The business office hours are listed in the rule as Monday through Wednesday, but should be listed as Monday and Wednesday. This language error occurred when the rule was adopted in 2013, but was not realized until recently. The department is holding a public hearing in the county seat to consider the proposed change in this rule language.

The department proposes changing the established business office days in Wheatland County, in newly numbered (3)(q), from Monday, Tuesday, and Friday to Monday, Tuesday, and Wednesday. The number of in-office days is not being reduced. Rather, by changing the third business office day in Wheatland County from Friday to Wednesday, but leaving the third business office day in nearby Golden Valley County on Friday, the staff in these two neighboring counties will be better able to provide crossover phone coverage on the days when the other county office is closed. The proposed change will provide for better phone coverage in both offices without compromising the ability of the staff from the two counties to continue to coordinate their field work together on Thursdays, the established weekly field day, for efficiency and safety. The department is holding a public hearing in the county seat to consider this proposed change in the business office hours.

The department further proposes removing Granite County, in (3)(g), from the rule because the office now has a staffing level commensurate with the workload in the county and is therefore able to be open during traditional business office hours. Alternative business office hours are no longer necessary for Granite County.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearings. Written data, views, or arguments may also be submitted to: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov and must be received no later than September 16, 2016.

5. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct these hearings.

6. The Department of Revenue 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 e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding a particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 4 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

7. An electronic copy of this notice is available on the department's web site at revenue.mt.gov/rules. 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. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

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

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses. Documentation of the department's determination is available at revenue.mt.gov/rules or upon request from the person in 4.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Mike Kadas
Mike Kadas
Director of Revenue

Certified to the Secretary of State July 25, 2016.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 42.19.401, 42.19.402, and)	PROPOSED AMENDMENT AND
42.19.405 and the transfer and)	TRANSFER AND AMENDMENT
amendment of ARM 42.19.501 and)	
42.19.503 pertaining to property tax)	
assistance programs)	

TO: All Concerned Persons

1. On September 6, 2016, at 9 a.m., the Department of Revenue will hold a public hearing in the Third Floor Reception Area Conference Room of the Sam W. Mitchell Building, located at 125 North Roberts, Helena, Montana, to consider the proposed amendment and transfer and amendment of the above-stated rules. The hearing room is most readily accessed by entering through the east doors of the building facing Sanders Street.

2. The Department of Revenue 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 p.m. on August 22, 2016, to advise us of the nature of the accommodation you need. Please contact Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696; or e-mail lalogan@mt.gov.

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

42.19.401 PROPERTY TAX ASSISTANCE PROGRAM (PTAP) (1) The property owner of record or the property owner's agent must make application to the local department office to receive the PTAP benefit provided for in ~~15-6-302~~ 15-6-305, MCA.

(2) The benefit is administered through a reduced property tax rate that applies to the first \$200,000 or less of the appraised value of the applicant's residential real property.

(a) The reduced property tax rate does not apply to separately described or assessed parcels of land that do not support the primary residential improvements, regardless of whether those parcels of land are contiguous with or adjacent to the primary residential property.

(b) Eligible property may include a mobile or manufactured home and the separately assessed land upon which the mobile or manufactured home is located only if the mobile or manufactured home and land are both owned by the applicant. To be eligible, the

~~The~~ property must be:

(i) owned by the applicant; or ~~be~~

(ii) under contract for deed; and be

(iii) used as the applicant's primary residence.

(3) A taxpayer's primary residence is a dwelling in which the taxpayer can demonstrate they lived at least 7 months of the year for which the assistance is claimed. The primary residence:

(a) must be the only residence for which the taxpayer claims property tax assistance; and in a given tax year. If the taxpayer owns and lives in one Montana dwelling

~~(b) may include more than one Montana dwelling when the taxpayer resides in one dwelling for less than 7 months during the tax year and in another Montana dwelling for less than 7 months of the same tax year, and the total between the two dwellings is at least 7 months of that year~~ the time in both dwellings can be combined to meet the 7-month requirement. In addressing such situations:

(i)(a) the department will apply the full year benefit to the primary residence that the qualified applicant owns and occupies when their property taxes are billed; and

(ii)(b) when such property transfers the department will notify the seller that they must provide their new property information to the department before the department will transfer the benefit to the applicant's new home.

(4) through (10) remain the same.

~~(11) In non-reappraisal years, the April 15 application deadline is waived if a first-time applicant forwards an application to the department postmarked before July 4.~~

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

~~(13)~~(12) The department shall may coordinate with the Social Security Administration and the Veterans Affairs Administration ~~in developing its process for verifying to verify~~ the income and eligibility of applicants and participants.

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

AUTH: 15-1-201, 15-6-302, MCA

IMP: 15-6-301, 15-6-302, 15-6-305, MCA

REASON: The department proposes amending ARM 42.19.401 to update the rule language to correct a previous amendment to the rule and better clarify how the department administers PTAP benefits, as follows.

Section (1) is proposed to be amended to correct a statute citation error.

Section (2) is proposed to be amended to restore language that was inadvertently removed from the rule when it was amended in 2015, in MAR notice number 42-2-936, as part of the implementation of Senate Bill (SB) 157, L. 2015 which generally revised tax reappraisal laws. Specifically, the language concerning separately described or assessed parcels, as was located in (3) of the rule prior to the 2015 amendment, should have remained in the rule when the department removed the 5-acre land limitation to correspond with that change in the law. The department believes it is important to restore the language concerning separately described or assessed parcels of land for two reasons. First, 15-6-301(7), MCA, only allows the benefit for the land and improvements of a taxpayer's primary residence. The department interprets the language in the statute as appropriately

excluding separately described or assessed parcels of land that do not support the primary residential improvements. Second, the department believes it is important to clearly state that such an exclusion does not apply to mobile or manufactured homes and the separately assessed land upon which the mobile or manufactured home is located if they are both owned by the applicant.

Section (3) is proposed to be amended to make it easier to understand how the situation will be administered when an applicant sells one home and purchases another home in the same year. Section (11) is proposed to be deleted because the property owner may receive a waiver of the April 15 deadline in any year, not only a non-reappraisal year. Section (13) is proposed to be amended to replace the word "shall" with "may" due to the Social Security Administration and Veterans Affairs Administration inability to verify income in every instance; and to strike outdated language referring to the department's further development of a verification process because that process has since been developed.

42.19.402 INFLATION ADJUSTMENT FOR PROPERTY TAX ASSISTANCE PROGRAM (PTAP) (1) and (2) remain the same.

AUTH: 15-1-201, MCA

IMP: 15-6-191, 15-6-301, 15-6-305, MCA

REASON: The department proposes amending ARM 42.19.402 to add the acronym PTAP to the rule title for format consistency with the titles for other property tax assistance program rules in this subchapter. No changes are proposed for the rule content.

42.19.405 DEFINITIONS The following definitions apply to rules found in this ~~chapter~~ subchapter.

(1) remains the same.

(2) "Percentage reduction" means the amount by which the property tax rate is reduced based on the income schedule found in:

(a) remains the same.

(b) ~~ARM 42.19.503~~ 42.19.404 for the Montana disabled veteran (MDV) property tax assistance program.

(3) "Qualifying income" means the federal adjusted gross income of an applicant and an applicant's spouse, excluding capital and income losses as they appear on their Montana income tax return for the prior tax year.

(a) If the applicant did not file a Montana income tax return for the applicable year, qualifying income means the federal adjusted gross income of the applicant and the applicant's spouse, excluding capital income losses as they appear on their federal income tax return, for the applicable year.

(b) If the applicant does not have an income tax filing requirement, the applicant's qualifying income is considered to be zero.

(4) remains the same.

AUTH: 15-1-201, 15-6-302, MCA

IMP: 15-6-134, 15-6-301, 15-6-305, 15-6-311, 15-30-2101, MCA

REASON: The department proposes amending ARM 42.19.405 to update a rule number reference in (2) and to expand the definition of "qualifying income" in (3) to set forth how the department determines qualifying income for an applicant that doesn't file a Montana tax return or doesn't have an income tax filing requirement at all. The amendment will allow the department to verify income for residents moving into the state who did not file a Montana tax return in the prior year and provide the department with the ability to verify the property owner's income using their federal income tax return.

The department further proposes amending the lead-in statement for the rule to change the word "chapter" to "subchapter" to more specifically identify the location of the terms defined in the rule.

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

42.19.501 (42.19.403) MONTANA DISABLED VETERAN (MDV) PROPERTY TAX EXEMPTION ASSISTANCE PROGRAM FOR QUALIFIED
DISABLED VETERANS

(1) The property owner of record or the property owner's agent must make application to the local department office to ~~obtain a property tax exemption under the Montana Disabled Veteran (MDV) program for property tax assistance~~ receive the MDV benefit provided for in 15-6-311, MCA.

(2) The ~~exemption~~ benefit applies to the residential real property of a qualified veteran or qualified veteran's surviving spouse that is owned or under contract for deed and used by a veteran or a qualified veteran's surviving spouse as a primary residence as provided for in 15-6-301 and 15-6-311, MCA.

(3) A taxpayer's primary residence is a dwelling in which the taxpayer can demonstrate they lived at least 7 months of the year for which the assistance is claimed. The primary residence:

(a) ~~must be the only residence for which the taxpayer claims property tax assistance; and~~ in a given tax year. If the taxpayer owns and lives in one Montana dwelling

~~(b) may include more than one Montana dwelling when the taxpayer resides in one dwelling for less than 7 months during the tax year and in another Montana dwelling for less than 7 months of the same tax year, and the total between the two dwellings is at least 7 months of that year~~ the time in both dwellings can be combined to meet the 7-month requirement. In addressing such situations:

(i)(a) the department will apply the full year benefit to the primary residence that the qualified applicant owns and occupies when their property taxes are billed; and

(ii)(b) when such property transfers the department will notify the seller that they must provide their new property information to the department before the department will transfer the benefit to the applicant's new home.

(4) remains the same.

(5) A temporary stay in a nursing home or similar facility will not change an applicant's primary residence for the purposes of the MDV program.

(a) The primary residence does not include separately described or assessed

parcels of land that do not support the primary residential improvements, regardless of whether those parcels of land are contiguous with or adjacent to the primary residential property.

(b) If the primary residence is a mobile or manufactured home that is assessed separately from the land upon which it is located, both the mobile or manufactured home and the land upon which it is located may qualify for the benefit only if they are both owned by the applicant. If the land is not owned by the applicant, the benefit applies only to the mobile or manufactured home.

(6) through (10) remain the same.

~~(11) In non-reappraisal years, the April 15 deadline is waived if a first time applicant forwards an application to the department postmarked before July 1.~~

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

~~(13)~~(12) The department shall may coordinate with the Social Security Administration and the Veterans Affairs Administration ~~in developing its process for verifying to verify~~ the income and eligibility of applicants and participants.

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

AUTH: 15-1-201, 15-6-302, MCA

IMP: 15-6-301, 15-6-311, MCA

REASON: The department proposes amending ARM 42.19.501 to update the rule language to clarify how the department administers the Montana Disabled Veteran (MDV) property tax assistance program benefits.

Sections (1) and (2) are proposed to be amended to remove the term "exemption" to correspond with a change that occurred with the 2015 Legislature's repeal of 15-6-211, MCA, pertaining to property tax exemptions, and relocation of the MDV program to 15-6-311, MCA, pertaining to property tax assistance.

Section (3) is proposed to be amended to allow the property owner to combine the time lived in primary residences to meet the 7-month occupancy requirement when one residence is sold and another is purchased in the same tax year.

Section (5) is proposed to be amended to restore language that was inadvertently removed from the rule when it was amended in 2015, in MAR notice number 42-2-936, as part of the implementation of Senate Bill (SB) 157, L. 2015 which generally revised tax reappraisal laws. Specifically, the language concerning separately described or assessed parcels, as was located in (3) of the rule prior to the 2015 amendment, should have remained in the rule when the department removed the 5-acre land limitation to correspond with that change in the law. The department believes it is important to restore the language concerning separately described or assessed parcels of land for two reasons. First, 15-6-301(7), MCA, only allows the benefit for the land and improvements of a taxpayer's primary residence. The department interprets the language in the statute as appropriately excluding separately described or assessed parcels of land that do not support the primary residential improvements. Second, the department believes it is important to clearly state that such an exclusion does not apply to mobile or manufactured homes and the separately assessed land upon which the mobile or manufactured home is located if they are both owned by the applicant.

Section (11) is proposed to be deleted because the property owner may receive a waiver of the April 15 deadline in any year, not only a non-reappraisal year. Section (13) is proposed to be amended to replace the word "shall" with "may" due to the Social Security Administration and Veterans Affairs Administration inability to verify income in every instance; and to strike outdated language referring to the department's further development of a verification process which is now in place.

The department also proposes amending the rule title to change the word "exemption" to "assistance," in keeping with the SB 157, L. 2015 statutory change and to include the full program name and acronym MDV in the title for format consistency with the titles of other property tax assistance rules.

The department further proposes transferring the rule to ARM Title 42, chapter 19, subchapter 4, to provide the information in the rule together with the department's other property tax assistance rules to make it easier for property taxpayers to locate the information. Subchapter 4 will be renamed "property tax assistance programs" to encompass all of the subject matter in that location.

42.19.503 (42.19.404) INFLATION ADJUSTMENT FOR QUALIFIED MONTANA DISABLED VETERAN (MDV) PROPERTY TAX EXEMPTION ASSISTANCE PROGRAM (1) Sections 15-6-301 and 15-6-311, MCA, provide a for property tax exemption or partial exemption assistance to qualified disabled veterans. Sections 15-6-301 and 15-6-311, MCA, also require the department to annually adjust the income schedules used to determine the eligibility and the amount of exemption to account for the effects of inflation.

(2) remains the same.

AUTH: 15-1-201, MCA

IMP: 15-6-301, 15-6-311, MCA

REASON: The department proposes amending ARM 42.19.503 to update (1) and the rule title by replacing the word "exemption" with "assistance," in keeping with a statutory change that occurred with the enactment of Senate Bill 157, L. 2015, which relocated the primary statute governing the disabled veteran assistance program from Title 15, chapter 6, part 2, Tax-Exempt Property to Title 15, chapter 6, part 3, Property Tax Assistance. The department also proposes adding the full program name and acronym MDV to the rule title for format consistency with the titles of the other property tax assistance rules.

The department further proposes transferring the rule to ARM Title 42, chapter 19, subchapter 4, to provide the information in the rule together with the department's other property tax assistance rules to make it easier for property taxpayers to locate. Subchapter 4 will be renamed "property tax assistance programs" to encompass all of the subject matter in that location of ARM Title 42.

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: Laurie Logan, Department of Revenue, Director's Office, P.O. Box 7701, Helena, Montana 59604-7701; telephone (406) 444-7905; fax (406) 444-3696;

or e-mail lalogan@mt.gov and must be received no later than September 20, 2016.

6. Laurie Logan, Department of Revenue, Director's Office, has been designated to preside over and conduct this hearing.

7. The Department of Revenue 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 e-mail or mailing address of the person to receive notices and specifies that the person wishes to receive notice regarding a particular subject matter or matters. Notices will be sent by e-mail unless a mailing preference is noted in the request. A written request may be mailed or delivered to the person in 5 above or faxed to the office at (406) 444-3696, or may be made by completing a request form at any rules hearing held by the Department of Revenue.

8. An electronic copy of this notice is available on the department's web site at revenue.mt.gov/rules. 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. While the department also strives to keep its web site accessible at all times, in some instances it may be temporarily unavailable due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary sponsor of Senate Bill 157, L. 2015, Senator Bruce Tutvedt, was contacted by letter on July 16, 2015, and subsequently contacted by e-mail on July 13, 2016.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment and transfer and amendment of the above-referenced rules will not significantly and directly impact small businesses. Documentation of the department's determination is available at revenue.mt.gov/rules or upon request from the person in 6.

/s/ Laurie Logan
Laurie Logan
Rule Reviewer

/s/ Gene Walborn acting for
Mike Kadas
Director of Revenue

Certified to the Secretary of State July 25, 2016.

BEFORE THE DEPARTMENT OF COMMERCE
OF THE STATE OF MONTANA

In the matter of the adoption of New) NOTICE OF ADOPTION
Rule I pertaining to the administration)
of the 2016 and 2017 Program Year)
Community Development Block Grant)
(CDBG) Program – Affordable)
Housing Development Projects)

TO: All Concerned Persons

1. On June 3, 2016, the Department of Commerce published MAR Notice No. 8-94-147 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 932 of the 2016 Montana Administrative Register, Issue Number 11.

2. No comments or testimony were received.

3. The department has adopted NEW RULE I (ARM 8.94.3730) as proposed.

/s/ KELLY A. LYNCH
KELLY A. LYNCH
Rule Reviewer

/s/ MEG O'LEARY
MEG O'LEARY
Director
Department of Commerce

Certified to the Secretary of State July 25, 2016.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW)	NOTICE OF ADOPTION,
RULES I through IX, the amendment)	AMENDMENT, AND REPEAL
of ARM 10.53.101 through 10.53.103)	
and 10.54.2501, and the repeal of)	
ARM 10.54.2810 through 10.54.2813,)	
10.54.2820 through 10.54.2823,)	
10.54.2830 through 10.54.2833,)	
10.54.2840 through 10.54.2843,)	
10.54.2850 through 10.54.2853,)	
10.58.2860 through 10.54.2863, and)	
10.54.2887 through 10.54.2898)	
pertaining to K-12 arts content)	
standards)	

TO: All Concerned Persons

1. On June 3, 2016, the Board of Public Education published MAR Notice No. 10-53-275 pertaining to the public hearing on the proposed adoption, amendment, and repeal of the above-stated rules at page 938 of the 2016 Montana Administrative Register, Issue Number 11.

2. The board has adopted the following new rules:

NEW RULE I	ARM 10.53.601	ARTS CONTENT STANDARDS
NEW RULE II	ARM 10.53.602	ARTS CONTENT STANDARDS FOR KINDERGARTEN
NEW RULE III	ARM 10.53.603	ARTS CONTENT STANDARDS FOR FIRST GRADE
NEW RULE IV	ARM 10.53.604	ARTS CONTENT STANDARDS FOR SECOND GRADE
NEW RULE V	ARM 10.53.605	ARTS CONTENT STANDARDS FOR THIRD GRADE
NEW RULE VI	ARM 10.53.606	ARTS CONTENT STANDARDS FOR FOURTH GRADE
NEW RULE VII	ARM 10.53.607	ARTS CONTENT STANDARDS FOR FIFTH GRADE
NEW RULE VIII	ARM 10.53.608	ARTS CONTENT STANDARDS FOR SIXTH THROUGH EIGHTH GRADES
NEW RULE IX	ARM 10.53.609	ARTS CONTENT STANDARDS FOR NINTH THROUGH TWELFTH GRADES

3. The board has amended ARM 10.53.101 through 10.53.103 and 10.54.2501 as proposed.

4. The board has repealed 10.54.2810 through 10.54.2813, 10.54.2820 through 10.54.2823, 10.54.2830 through 10.54.2833, 10.54.2840 through 10.54.2843, 10.54.2850 through 10.54.2853, 10.58.2860 through 10.54.2863, and 10.54.2887 through 10.54.2898 as proposed.

5. The effective date of these rules is July 1, 2017.

6. The following comments were received.

COMMENT 1: Mr. Pat Audet, Associate Director, School Administrators of Montana, stated that SAM supports the new art standards. He recognized that wonderful minds were together to create these standards and having artists in his family he sees the importance of the arts in education. These standards give students a vast array of exposure to a variety of the arts.

RESPONSE: The Board of Public Education thanks the commenter for his comments.

COMMENT 2: Ms. Emily Kohring, Director of Arts Education for the Montana Arts Council, submitted written comments in support of the arts standards. She stated they are a great leap forward from the previous, outdated set of standards. She acknowledged the hard work and dedication of the people involved with writing and reviewing the standards. She feels these standards will result in a higher quality of teaching and a much deeper and richer experience in arts learning for all of Montana's K-12 students.

RESPONSE: The Board of Public Education thanks the commenter for her comments.

/s/ Peter Donovan
Peter Donovan
Rule Reviewer

/s/ Sharon Carroll
Sharon Carroll, Chair
Board of Public Education

Certified to the Secretary of State July 25, 2016.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the adoption of NEW)	NOTICE OF ADOPTION AND
RULES I through XIX and repeal of)	REPEAL
ARM 10.54.7010 through 10.54.7013,)	
10.54.7020 through 10.54.7023,)	
10.54.7030 through 10.54.7033,)	
10.54.7040 through 10.54.7043,)	
10.54.7050 through 10.54.7053,)	
10.54.7060 through 10.54.7063,)	
10.54.7070 through 10.54.7073,)	
10.54.7087 through 10.54.7098)	
pertaining to K-12 health and physical)	
education content standards)	

TO: All Concerned Persons

1. On June 3, 2016, the Board of Public Education published MAR Notice No. 10-53-276 pertaining to the public hearing on the proposed adoption and repeal of the above-stated rules at page 961 of the 2016 Montana Administrative Register, Issue Number 11.

2. The board has adopted the following new rules:

NEW RULE I	ARM 10.53.701	HEALTH CONTENT STANDARDS
NEW RULE II	ARM 10.53.702	HEALTH STANDARDS FOR KINDERGARTEN
NEW RULE III	ARM 10.53.703	HEALTH STANDARDS FOR FIRST GRADE
NEW RULE IV	ARM 10.53.704	HEALTH STANDARDS FOR SECOND GRADE
NEW RULE V	ARM 10.53.705	HEALTH STANDARDS FOR THIRD GRADE
NEW RULE VI	ARM 10.53.706	HEALTH STANDARDS FOR FOURTH GRADE
NEW RULE VII	ARM 10.53.707	HEALTH STANDARDS FOR FIFTH GRADE
NEW RULE VIII	ARM 10.53.708	HEALTH STANDARDS FOR SIXTH THROUGH EIGHTH GRADES
NEW RULE IX	ARM 10.53.709	HEALTH STANDARDS FOR NINTH THROUGH TWELFTH GRADES
NEW RULE X	ARM 10.53.710	CONTENT STANDARDS FOR PHYSICAL EDUCATION
NEW RULE XI	ARM 10.53.711	DEFINITIONS
NEW RULE XII	ARM 10.53.712	PHYSICAL EDUCATION STANDARDS FOR KINDERGARTEN

NEW RULE XIII	ARM 10.53.713	PHYSICAL EDUCATION STANDARDS FOR FIRST GRADE
NEW RULE XIV	ARM 10.53.714	PHYSICAL EDUCATION STANDARDS FOR SECOND GRADE
NEW RULE XV	ARM 10.53.715	PHYSICAL EDUCATION STANDARDS FOR THIRD GRADE
NEW RULE XVI	ARM 10.53.716	PHYSICAL EDUCATION STANDARDS FOR FOURTH GRADE
NEW RULE XVII	ARM 10.53.717	PHYSICAL EDUCATION STANDARDS FOR FIFTH GRADE
NEW RULE XVIII	ARM 10.53.718	PHYSICAL EDUCATION STANDARDS FOR SIXTH THROUGH EIGHTH GRADES
NEW RULE XIX	ARM 10.53.719	PHYSICAL EDUCATION STANDARDS FOR NINTH THROUGH TWELFTH GRADES

3. The board has repealed ARM 10.54.7010 through 10.54.7013, 10.54.7020 through 10.54.7023, 10.54.7030 through 10.54.7033, 10.54.7040 through 10.54.7043, 10.54.7050 through 10.54.7053, 10.54.7060 through 10.54.7063, 10.54.7070 through 10.54.7073, and 10.54.7087 through 10.54.7098 as proposed.

4. The effective date of these rules is July 1, 2017.

5. The following comments were received.

COMMENT 1: Mr. Pat Audet, Associate Director, School Administrators of Montana, stated that SAM had reviewed the standards and is in full support. As a former health enhancement teacher he feels the standards support successful learning.

RESPONSE: The Board of Public Education thanks the commenter for his comments.

COMMENT 2: Ms. Nancy Stock, Executive Director of SHAPE Montana and a health education teacher in Florence, Montana, stated this was the first time health education was written into federal standards and is now considered to be part of a well-rounded education, allowing for more funding and diverse programs.

RESPONSE: The Board of Public Education thanks the commenter for her comments.

COMMENT 3: Ms. Marti Edgemon, a health K-6 teacher in Billings and a board member of SHAPE Montana, stated her support for the rules and that she appreciates the learner outcomes at each grade level and separate standards for each grade level.

RESPONSE: The Board of Public Education thanks the commenter for her comments.

COMMENT 4: Ms. Teri Wilkinson, a health teacher in Noxon, Montana and secretary of SHAPE Montana, stated her support for the rules and appreciates how adaptable the standards are for small and large schools.

RESPONSE: The Board of Public Education thanks the commenter for her comments.

COMMENT 5: Ms. Michelle Peterson, K-6 health teacher for Great Falls and a director of SHAPE Montana, stated the standards allow adaptability across schools so students can transfer seamlessly. She appreciates the grade level banding and how the health and physical education standards are separate.

RESPONSE: The Board of Public Education thanks the commenter for her comments.

COMMENT 6: Ms. Carrie Ashe, Director of the Montana State University Extension Nutrition Education, submitted testimony in support of the new health and physical education standards. She stated her belief that the standards will provide a framework for educator's efforts to ensure K-12 students in Montana have the knowledge and skills necessary for both health and physical education.

RESPONSE: The Board of Public Education thanks the commenter for her comments.

COMMENT 7: Ms. Patti Steinmuller, MS, RD, CSSD, a sports dietician, submitted testimony in support of the new rules. She stated that the topics covered in the standards are important to address in aiding children and young adults in becoming competent in using nutrition and physical activities to maintain and improve their physical and mental health. She suggested introducing relationships between nutrition and physical activity earlier than grade 4 since the earlier they are discussed the more familiar and meaningful they become. She also suggested addressing energy balance directly starting at grade 3-4 so youth know ways in which nutrition and physical activity can interact to achieve healthy body weights and compositions.

RESPONSE: The Board of Public Education thanks the commenter for her comments.

/s/ Peter Donovan
Peter Donovan
Rule Reviewer

/s/ Sharon Carroll
Sharon Carroll, Chair
Board of Public Education

Certified to the Secretary of State July 25, 2016.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 10.56.101 pertaining to student)
assessment)

TO: All Concerned Persons

1. On June 3, 2016, the Board of Public Education published MAR Notice No. 10-56-271 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 991 of the 2016 Montana Administrative Register, Issue Number 11.

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

3. No comments or testimony were received.

/s/ Peter Donovan
Peter Donovan
Rule Reviewer

/s/ Sharon Carroll
Sharon Carroll, Chair
Board of Public Education

Certified to the Secretary of State July 25, 2016.

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 37.87.903 pertaining to)
Children's Mental Health Bureau)
Medicaid Services Policy Manual)
Revisions)

TO: All Concerned Persons

1. On May 6, 2016, the Department of Public Health and Human Services published MAR Notice No. 37-751 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 817 of the 2016 Montana Administrative Register, Issue Number 9.

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

37.87.903 MEDICAID MENTAL HEALTH SERVICES FOR YOUTH, AUTHORIZATION REQUIREMENTS (1) through (6) remain as proposed.

(7) In addition to the requirements contained in rule, the department has developed and published a provider manual entitled Children's Mental Health Bureau, Medicaid Services Provider Manual (Manual), dated ~~July 15, 2016~~ August 6, 2016, for the purpose of implementing requirements for utilization management. The department adopts and incorporates by reference the Children's Mental Health Bureau, Medicaid Services Provider Manual, dated ~~July 15, 2016~~ August 6, 2016. A copy of the manual may 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 N. Sanders, P.O. Box 4210, Helena, MT 59604-4210 or at <http://dphhs.mt.gov/dsd/CMB/Manuals.aspx>.

(8) and (9) remain as proposed.

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

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

COMMENT #1: A commenter expressed gratitude for the opportunity to participate in the policy process. In addition, the commenter stated they are supportive of the discharge notification requirement and is open to the addition of a prior authorization requirement for Home Support Services (HSS) and advocated for the continued involvement of providers and families in the development of the utilization review

process. The commenter also stated they support the removal of the five-day requirement for Home Support Services continued stay requests.

RESPONSE #1: The department appreciates the commenter's support and will continue to solicit feedback from providers and families in regards to the development of new policies pertaining to utilization review of Medicaid services.

COMMENT #2: One commenter expressed concerns with the addition of the diagnosis severity modifiers moderate or severe to Serious Emotionally Disturbed (SED) criteria and requested the state remove the language regarding severity modifiers. The commenter requests that providers and families are included in discussions regarding substantive changes to the SED criteria and that the department engage qualified professionals in the development of proposed changes.

RESPONSE #2: The severity modifiers of moderate to severe were not an addition to the criteria and there were no substantive changes to the SED criteria, the language was amended to clarify the criteria for youth under six as well as clarifying the annual requirement for reassessment. If the department were to amend the SED criteria, the department would utilize the three full-time licensed clinicians as well as a clinical supervisor on staff to assist with, and provide clinical insight into, the development of the utilization review process and the continued use of the serious emotional disturbance criteria. The department would then solicit feedback from additional qualified professionals and families prior to making substantive changes to the SED criteria.

COMMENT #3: One commenter requests that utilization review contractor staff be familiar with the youth receiving HSS and their families.

RESPONSE #3: The federal government, through the Centers for Medicare and Medicaid Services (CMS), requires all agencies serving a Medicaid population and receiving Medicaid funds to have a utilization management program in place to monitor the medical need for a service before payment for the intended service is authorized. The purpose of utilization review is to ensure that requested services are appropriate to address the mental health needs of the youth, as documented by the requestor, according to established clinical guidelines. Utilization review allows for a review from perspectives of medical necessity, quality of care, appropriateness, place of service, and length of stay based on the documented mental health needs of the youth. The utilization review process requires the reviewer to be unbiased, making determinations based solely on the documentation provided.

COMMENT #4: One commenter stated they believed the current behavioral criteria for determining SED status for youth under six is appropriate and that mental health diagnosis will often follow youth throughout their lifespan.

RESPONSE #4: It was not the intent of the department to amend the SED status criteria for youth under the age of six. The department has made language revisions in the manual based upon this comment in order to maintain the original intent of

SED status for youth under the age of six. Due to this revision to the manual, the department is changing the effective date in ARM 37.87.903 to August 6, 2016.

/s/ Cary B. Lund

Cary B. Lund, Attorney
Rule Reviewer

/s/ Richard H. Opper

Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State July 25, 2016

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEE

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee:

- Department of Agriculture;
- Department of Commerce;
- Department of Labor and Industry;
- Department of Livestock;
- Office of the State Auditor and Insurance Commissioner; and
- Office of Economic Development.

Education and Local Government Interim Committee:

- State Board of Education;
- Board of Public Education;
- Board of Regents of Higher Education; and
- Office of Public Instruction.

Children, Families, Health, and Human Services Interim Committee:

- Department of Public Health and Human Services.

Law and Justice Interim Committee:

- Department of Corrections; and
- Department of Justice.

Energy and Telecommunications Interim Committee:

- Department of Public Service Regulation.

Revenue and Transportation Interim Committee:

- Department of Revenue; and
- Department of Transportation.

State Administration and Veterans' Affairs Interim Committee:

- Department of Administration;
- Department of Military Affairs; and
- Office of the Secretary of State.

Environmental Quality Council:

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

Water Policy Interim Committee (where the primary concern is the quality or quantity of water):

- Department of Environmental Quality;
- Department of Fish, Wildlife and Parks; and
- Department of Natural Resources and Conservation.

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE MONTANA ADMINISTRATIVE REGISTER

Definitions: **Administrative Rules of Montana (ARM)** is a looseleaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR or Register) is 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 March 31, 2016. This table includes those rules adopted during the period April 1, 2016, through June 30, 2016, and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This table does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through March 31, 2016, this table, and the table of contents of this issue of the Register.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule, and the page number at which the action is published in the 2016 Montana Administrative Register.

To aid the user, the Accumulative Table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

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