

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 37.27.902, 37.88.101, and) PROPOSED AMENDMENT
37.89.201 pertaining to Chemical)
Dependency Programs and Medicaid)
Mental Health Services)

TO: All Concerned Persons

1. On November 9, 2023, at 3:00 p.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rules. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/84246566055?pwd=RTZNeVZXTzBxSFBEYk5ZUFJhdXhRQT09>, meeting ID: 842 4656 6055, and password: 942155; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 842 4656 6055, and password: 942155. Find your local number: <https://mt-gov.zoom.us/u/kbTmnSvJTe>.

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 October 26, 2023, to advise us of the nature of the accommodation that you need. Please contact Bailey Yuhas, 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 hhsadminrules@mt.gov.

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

37.27.902 SUBSTANCE USE DISORDER SERVICES: AUTHORIZATION REQUIREMENTS (1) remains the same.

(2) In addition to the requirements contained in rule, the department has developed and published the Behavioral Health and Developmental Disabilities (BHDD) Division Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health, dated ~~October 1, 2022~~ July 1, 2023, which it adopts and incorporates by reference. The purpose of the manual is to implement requirements for utilization management and services. 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, Behavioral Health and Developmental Disabilities (BHDD) Division, 100 N. Park, Ste. 300, P.O. Box 202905, Helena, MT 59620-2905 or at:

<https://dphhs.mt.gov/amdd/AMDDMedicaidServicesProviderManual> <https://dphhs.mt.gov/bhdd/BHDDMedicaidServicesProviderManual>.

(3) In addition to the requirements contained in rule, the department has developed and published the BHDD Division Non-Medicaid Services Provider Manual for Substance Use Disorder, dated ~~October 1, 2022~~ July 1, 2023, which it adopts and incorporates by reference. The purpose of the manual is to implement requirements for utilization management and services. 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, Behavioral Health and Developmental Disabilities (BHDD) Division, 100 N. Park, Ste. 300, P.O. Box 202905, Helena MT 59620-2905 or at: <https://dphhs.mt.gov/amdd/AMDDNonMedicaidServicesProviderManual> <https://dphhs.mt.gov/bhdd/BHDDNonMedicaidServicesProviderManual>.

AUTH: 53-6-113, 53-24-204, 53-24-208, 53-24-209, MCA

IMP: 53-6-101, 53-24-204, 53-24-208, 53-24-209, MCA

37.88.101 MEDICAID MENTAL HEALTH SERVICES FOR ADULTS, AUTHORIZATION REQUIREMENTS (1) remains the same.

(2) In addition to the requirements contained in rule, the department has developed and published the Behavioral Health and Developmental Disabilities (BHDD) Division Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health, dated ~~October 1, 2022~~ July 1, 2023, which it adopts and incorporates by reference. The purpose of the manual is to implement requirements for utilization management and services. 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, Behavioral Health and Developmental Disabilities (BHDD) Division, 100 N. Park, Ste. 300, P.O. Box 202905, Helena, MT 59620-2905 or at: <https://dphhs.mt.gov/amdd/AMDDMedicaidServicesProviderManual> <https://dphhs.mt.gov/bhdd/BHDDMedicaidServicesProviderManual>.

(3) through (5) remain the same.

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

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

37.89.201 NON-MEDICAID MENTAL HEALTH SERVICES FOR ADULTS: REQUIREMENTS (1) In addition to requirements contained in rule, the department has developed and published the Behavioral Health and Developmental Disabilities Division Non-Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health, dated ~~October 1, 2022~~ July 1, 2023, which provides information and policies pertaining to state-funded behavioral health services and substance use disorder services and implements requirements for utilization management and services. The department adopts and incorporates by reference the manual as part of this rule. 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, Addictive and Mental Disorders Division, 100 N. Park, Ste. 300, P.O. Box 202905, Helena, MT 59620-2905 or at

<https://dphhs.mt.gov/amdd/AMDDMedicaidServicesProviderManual>
<https://dphhs.mt.gov/bhdd/BHDDNonMedicaidServicesProviderManual>.

AUTH: 53-2-201, 53-21-1405, MCA

IMP: 53-21-1401, 53-21-1402, 53-21-1403, 53-21-1404, 53-21-1405, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.27.902, 37.88.101, and 37.89.201.

This rulemaking notice is part of the department's Healing and Ending Addiction through Recovery and Treatment (HEART) Initiative. The HEART Initiative will establish a comprehensive continuum of care to address Montana's behavioral health needs, which includes services for mental health and substance use disorder treatment. The HEART Initiative represents the state's commitment to expanding coverage and promoting access to prevention, crisis intervention, treatment, and recovery services for eligible Montanans.

In this proposed rulemaking notice, the department proposes to adopt updated versions of the Behavioral Health and Developmental Disabilities (BHDD) Medicaid and non-Medicaid manuals to effectuate these changes. This change will allow BHDD to expand the behavioral health continuum of care and ensure consistency in the delivery of crisis services in both Medicaid and Non-Medicaid programs. BHDD proposes amending the manuals to add policies for Mobile Crisis Response Services and Mobile Crisis Care Coordination to better align with the Crisis Now model.

The proposed updated manuals, with proposed additions underlined and proposed deletions struck through, are posted on the department's web site at <https://dphhs.mt.gov/bhdd/>. The department proposes that the effective date for the updated manuals will be July 1, 2023. Each of the rules proposed to be amended refers to the Medicaid or non-Medicaid manual, and the rules must be amended to reflect the updated version and date of the manual.

The following policies are being adopted or amended to better align with SAMHSA's Crisis Now model:

Policy 001NM, Purpose, would be amended to include the current link to the BHDD Medicaid Manual, add Mobile Crisis Response Services and Mobile Crisis Care Coordination as allowable Non-Medicaid Mental Health Crisis Services for individuals between 139 and 150% of federal poverty guidelines, and update language for clarity to address stakeholder questions and comments.

Policy 215NM, Case Consultation, would be amended to update the division name.

Policy 230, Integrated Service Delivery and Explanation of Concurrent Service, would be amended to account for the addition of policy 452 Mobile Crisis Response Services and policy 454 Mobile Crisis Care Coordination.

Policy 305NM, Individual Specialized Services: Goal 189, would be amended to update the division name, correct typographical errors, and update terminology from "MMIS system" for clarity to address stakeholder questions and comments.

Policy 452, Mobile Crisis Response Services (MCRS), would be adopted as a new service. MCRS is a tiered model that includes three models: 1. The American Rescue Plan Act (ARPA) Mobile Crisis Team Services, which requires 24/7 coverage of a two-person responding team made up of one clinical mental health professional and one paraprofessional; 2. Mobile Crisis Team Services, which requires 10/7 coverage of a two-person responding team made up of one clinical mental health professional and one paraprofessional; and 3. Mobile Crisis Services, which requires 10/7 coverage of a one-person response by a clinical mental health professional. All models must arrange for the availability of referral to outpatient care and Mobile Crisis Care Coordination.

Policy 454, Mobile Crisis Care Coordination (MCCC), would be adopted as a new service. MCCC provides deliberate organization of member care activities to members within 72 hours of the initial utilization of Mobile Crisis Response Services.

Fiscal Impact

The proposed rule amendments have no fiscal impact. Any fiscal impact would be included with Notice No. 37-1037 that is also proposed to be implemented effective as of July 1, 2023.

5. The department intends these rule amendments to be retroactively effective July 1, 2023. The retroactive effective date will not negatively affect any person or provider.

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: Bailey Yuhas, 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 hhsadminrules@mt.gov, and must be received no later than 5:00 p.m., November 17, 2023.

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.

9. An electronic copy of this notice is available on the department's web site at <https://dphhs.mt.gov/LegalResources/administrativerules>, or through the Secretary of State's web site at <http://sosmt.gov/ARM/register>.

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/ Brenda K. Elias
Brenda K. Elias
Rule Reviewer

/s/ Charles T. Brereton
Charles T. Brereton, Director
Department of Public Health and Human
Services

Certified to the Secretary of State October 10, 2023.