

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 37.87.2203 pertaining to) PROPOSED AMENDMENT
children's mental health room and)
board updates)

TO: All Concerned Persons

1. On August 15, 2024, at 10:00 a.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 rule. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/89822328790?pwd=a1ZIRDIEeEZmdzY0Z3E2TThXc1h3dz09>, meeting ID: 898 2232 8790, and password: 437774; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 898 2232 8790, and password: 437774. Find your local number: <https://mt-gov.zoom.us/j/89822328790>.

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 1, 2024, 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 rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

37.87.2203 NON-MEDICAID SERVICES PROGRAM (1) and (2) remain the same.

(3) The department adopts and incorporates by reference the CMHB's Non-Medicaid Services Program Provider Manual, dated ~~October 14, 2017~~ March 1, 2024 (the Manual), which sets forth the requirements and limitations of the CMHB's Non-Medicaid Services Program.

(4) remains the same.

AUTH: 53-2-201, 53-6-113, 53-21-703, MCA

IMP: 53-1-601, 53-1-602, 53-1-603, 53-2-201, 53-21-701, 53-21-702, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.87.2203.

The following summary explains programmatic changes and the reasonable necessity for the proposed rule amendment.

The department is proposing updates to the Children's Mental Health Bureau Non-Medicaid Services Provider Manual, effective March 1, 2024. The proposed updates increase access to room and board funding for Montana Medicaid and Healthy Montana Kids (HMK) members with serious emotional disturbance (SED) who require medically necessary therapeutic group home (TGH) or therapeutic foster care (TFC) services. The department proposes to use funds from the Supplemental Services Program (SSP), System of Care Account (SOCA), and the Children's Mental Health Bureau Room and Board Account to pay for room and board. These updates are in response to provider and family outreach regarding the need for additional room and board flexibilities with the Mental Health Block Grant room and board funding ending. The proposed updates will also clarify and simplify processes.

Children's Mental Health Bureau Non-Medicaid Services Provider Manual Updates

The department currently provides limited funding for room and board services for families with youth with SED in need of medically necessary TGH and TFC services. The department is authorized to use Medicaid funding to cover the treatment portion of the stay; however, room and board must be paid for with non-Medicaid funding. In the past federal fiscal year, the department has used Mental Health Block Grant funds for a short period of time to support providers and families with the cost of room and board while a youth is receiving medically necessary treatment in a TGH or TFC placement. Block grant funding is no longer available to pay for room and board. The department proposes to make program updates to increase access to funding from SSP, SOCA, and the Children's Mental Health Bureau Room and Board Account.

The department is proposing the following updates to increase access to room and board funding:

- Currently, room and board services funded through SSP have a four-month maximum. The proposed updates will provide for an equivalent daily maximum of 120 days for youth who begin their treatment mid-month. Currently, a month is counted regardless of what day of the month a youth is placed at a TGH or TFC, which limits the youth's access to the service.
- Currently, the four-month maximum for SSP applies to the entire family. The proposed updates would allow 120 days for each youth in the family requiring medically necessary TGH or TFC treatment.

- Currently, at least one month break in service is required between federal fiscal years for SSP funding. The proposed updates will allow funding to refresh at the start of the fiscal year for youth who require consecutive treatment that spans two federal fiscal years.
- The proposed updates will remove the sliding fee schedule for all room and board funding sources so that all eligible families have access to the same amount of funding.
- The proposed updates will remove a second income verification for families and providers in order to streamline the process.

The updated Children's Mental Health Bureau Non-Medicaid Services Provider Manual also includes general clean up and clarifying language to better describe current processes. The department proposes the effective date of the manual be updated to March 1, 2024, in ARM 37.87.2203. The department is proposing the following updates to the manual:

- Removing previous manual updates from the Introduction.
- Updating the name of the division to "Behavioral Health and Developmental Disabilities (BHDD) Division."
- Updating the definition of "youth" to refer to the definition in ARM 37.87.102.
- In the Eligibility Criteria section of the SOCA chapter, updating the eligibility requirements by referring to the definition of youth, as provided in the previous bullet point, to ensure uniformity and consistency.
- Adding language throughout to include youth who receive HMK/CHIP in addition to youth who receive HMK+/Medicaid to clarify that youth with either coverage are eligible for funding per current processes.
- Updating the link to the Children's Mental Health website.
- Adding "Applications must be submitted to the CMHB within ten (10) days of an approved TGH prior authorization." to Chapter 7 Request for SSP, R&B, and SOCA to reflect the current process.
- Adding language to specify that the link to obtain a blank W-9 is for the IRS website.
- Removing all language referring to income verification because the department is proposing to eliminate that step in the eligibility process.
- General grammar and spelling corrections.

Fiscal Impact

There is no fiscal impact associated with these rule amendments.

5. The department proposes this rule amendment be retroactive to March 1, 2024.

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., August 23, 2024.

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. Written requests 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 rules.mt.gov.

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/ Robert Siedlecki
Robert Siedlecki, Deputy Director
Department of Public Health and Human
Services

Certified to the Secretary of State July 16, 2024.