

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 37.79.304 pertaining to Healthy ) PROPOSED AMENDMENT  
Montana Kids Benefits )

TO: All Concerned Persons

1. On August 15, 2024, at 11:00 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/84238723579?pwd=Wkh0TThVYnZoVEFrNWU4TnVqWHJyUT09>, meeting ID: 842 3872 3579, and password: 658494; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 842 3872 3579, and password: 658494. Find your local number: <https://mt-gov.zoom.us/u/kep9Futyzc>.

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](mailto:hhsadminrules@mt.gov).

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

37.79.304 SERVICES COVERED (1) The department adopts and incorporates by reference the HMK Evidence of Coverage dated ~~January 1, 2023~~ January 1, 2024, which is available on the department's web site at [www.hmk.mt.gov](http://www.hmk.mt.gov).

(2) remains the same.

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

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.79.304, which adopts the Healthy Montana Kids (HMK) Evidence of Coverage (EOC) document describing the Healthy Montana Kids (HMK) benefit

plan. Any changes to the benefit plan require the EOC and the effective date of the rule to be updated in rule.

The proposed changes to the EOC document are as follows:

- Add Fertility Preservation services to benefit plan, a service approved by the 2023 Legislature for qualifying members, setting forth the criteria to qualify for the service. The service covers collection of eggs and sperm for eligible HMK members but does not cover storage costs.
- Add Mobile Crisis services to benefit plan and set forth the medical necessity criteria for the service. The additional language in the manual is necessary to ensure service parameters are spelled out for providers and members and to ensure public funds are used in the most cost-effective way.
- Add Substance Use Disorder (SUD) diagnosis to Community Based Psychiatric Rehabilitation and Support (CBPRS) qualification criteria. This proposed change will align this service with the Medicaid program and ensure uniformity in services.
- Redefine Emergency Medical Condition with acute symptoms to align with Code of Federal Regulation definitions.
- Remove prior authorization requirement for Outpatient Rehabilitation/Habilitation Therapy services to align with Medicaid processes to ensure uniformity in services.
- Remove prior authorization requirement for Extended Behavioral Health Benefits to align with the Medicaid process to ensure uniformity of services.
- Add ABA and ambulance to list of services that need Conduent's first level appeals and removed CBPRS from the list to ensure accuracy for billing of claims.
- Clarify what services Conduent is responsible for administering.
- Update the DPHHS logo for conformity with DPHHS standards.
- Update BCBS P.O. Box to ensure accuracy.
- Make a variety of grammatical corrections to make document clearer to readers.

The department has posted a redlined version of the proposed EOC manual with the changes outlined above at <https://dphhs.mt.gov/HMK/>.

#### Fiscal Impact

Adding the Fertility Preservation Services was estimated to have an annual fiscal impact of \$8,123 for the HMK/CHIP populations.

5. The department intends these rule amendment changes to be effective retroactively to January 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](mailto: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. 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 [rules.mt.gov](http://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/ Charles T. Brereton  
Charles T. Brereton, Director  
Department of Public Health and Human  
Services

Certified to the Secretary of State July 16, 2024.