

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 37.34.912 pertaining to ) PROPOSED AMENDMENT  
Medicaid HCBS Provider )  
requirements )

TO: All Concerned Persons

1. On August 15, 2024, at 9:00 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/88929732209?pwd=RkNmWUVhc1QvbIA3T0pxN0h5RHhUUT09>, meeting ID: 889 2973 2209, and password: 000268; or

(b) Dial by telephone: +1 <https://mt-gov.zoom.us/j/88929732209?pwd=RkNmWUVhc1QvbIA3T0pxN0h5RHhUUT09>, meeting ID: 889 2973 2209, and password: 000268. Find your local number: <https://mt-gov.zoom.us/j/88929732209?pwd=RkNmWUVhc1QvbIA3T0pxN0h5RHhUUT09>.

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:

37.34.912 0208 MEDICAID HOME AND COMMUNITY-BASED SERVICES PROGRAM: PROVIDER REQUIREMENTS ~~(1) The criteria for a qualified provider to be authorized to deliver a service available through the 0208 HCBS Waiver Program are specified in the Provider Specifications for Services Matrix for the 0208 HCBS Waiver Program.~~

~~(2)~~(1) The Developmental Disabilities Program 0208 Comprehensive Waiver Provider Specifications for Services Matrix Manual for the 0208 HCBS Waiver Program, dated December 27, 2013 July 1, 2024, sets forth the qualifications and standards that govern provider requirements in the provision of 0208 HCBS waiver services the qualified provider and service delivery processes.

~~(3)~~(a) The department adopts and incorporates by reference the Developmental Disabilities Program 0208 Comprehensive Waiver Provider

~~Specifications for Services Matrix Manual for the 0208 HCBS Waiver Program, dated December 27, 2013~~ July 1, 2024.

~~(4)(b)~~ A copy of the ~~matrix~~ Developmental Disabilities Program 0208 Comprehensive Waiver Provider Manual may be obtained through the Department of Public Health and Human Services, Developmental Disabilities Program, 111 N. Sanders, PO Box 4210, Helena, MT 59604-4210 ~~or at~~ <http://www.dphhs.mt.gov/dsd/ddp/medicaidwaivers.shtml>.

~~(5)~~ A provider must document the completion of training in the ~~personnel file of the staff or in the provider's staff training file~~ including:

- ~~(a) the date of the training;~~
- ~~(b) name and title of trainer;~~
- ~~(c) name and signature of person receiving the training;~~
- ~~(d) type of training;~~
- ~~(e) the agenda of the training; and~~
- ~~(f) hours of training.~~

~~(6)~~ Any facility providing services must meet all applicable licensing requirements and fire and safety standards.

~~(7)~~ A person directly providing services must be mentally and physically capable of assisting a person receiving services as required by the program.

AUTH: 53-6-113, 53-6-402, MCA

IMP: 53-6-101, 53-6-402, MCA

#### 4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.34.912 to adopt and incorporate into rule the Developmental Disabilities Program 0208 Comprehensive Waiver Provider Manual, effective July 1, 2024.

The purpose of this manual is to guide Developmental Disabilities Program (DDP) 0208 Comprehensive Waiver providers through the qualified provider and service delivery processes and includes information on the following subjects:

1. Purpose of the 0208 Waiver program
2. Administration of the 0208 Waiver program
3. Provider types under the 0208 Waiver program (including a training matrix which lists staff training requirements)
4. Procedures for the 0208 Waiver program
5. Grant funds for 0208 Waiver providers

This amendment is necessary because DDP is transitioning to the Medicaid provider enrollment process and eliminating the need for provider contracts.

#### Fiscal Impact

The proposed rule amendment has no anticipated fiscal impact implications.

5. The department intends for this rule amendment to be applied retroactively to July 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.