

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

In the matter of the repeal of ARM) NOTICE OF PROPOSED REPEAL
Title 37, chapter 85, subchapter 11)
pertaining to the Electronic Health) NO PUBLIC HEARING
Records Incentive Program) CONTEMPLATED

TO: All Concerned Persons

1. The Department of Public Health and Human Services proposes to repeal 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 January 3, 2025, to advise us of the nature of the accommodation that you need. Please contact Bailey Yuhus, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena MT 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov.

3. The department proposes to repeal the following rules:

37.85.1101 PURPOSE

AUTH: 53-6-113, MCA
IMP: 53-6-111, MCA

37.85.1103 DEFINITIONS

AUTH: 53-6-113, MCA
IMP: 53-6-111, MCA

37.85.1105 ELIGIBLE PROVIDER REGISTRATION WITH CENTERS FOR
MEDICARE AND MEDICAID (CMS) NATIONAL LEVEL REPOSITORY (NLR)

AUTH: 53-6-113, MCA
IMP: 53-6-111, MCA

37.85.1107 ELIGIBLE PROVIDER AND ELIGIBLE HOSPITAL ELIGIBILITY
VERIFICATION BY DPHHS

AUTH: 53-6-113, MCA
IMP: 53-6-111, MCA

37.85.1109 ELIGIBLE HOSPITAL ELIGIBILITY VERIFICATION BY DPHHS

AUTH: 53-6-113, MCA
IMP: 53-6-111, MCA

37.85.1111 REGISTRATION, ATTESTATIONS, AND CERTIFICATION

AUTH: 53-6-113, MCA
IMP: 53-6-111, MCA

37.85.1113 REPORTING REQUIREMENTS IN FIRST AND SUBSEQUENT YEARS

AUTH: 53-6-113, MCA
IMP: 53-6-111, MCA

37.85.1115 PROOF OF ELECTRONIC HEALTH RECORDS CERTIFICATION

AUTH: 53-6-113, MCA
IMP: 53-6-111, MCA

37.85.1117 COMMUNICATION WITH PROVIDERS

AUTH: 53-6-113, MCA
IMP: 53-6-111, MCA

37.85.1119 APPLICATION FOR PAYMENTS BY AN ELIGIBLE PROVIDER OR ELIGIBLE HOSPITAL

AUTH: 53-6-113, MCA
IMP: 53-6-111, MCA

37.85.1121 ELIGIBLE PROVIDER INCENTIVE PAYMENT SCHEDULE

AUTH: 53-6-113, MCA
IMP: 53-6-111, MCA

37.85.1123 ELIGIBLE HOSPITAL INCENTIVE PAYMENT CALCULATION

AUTH: 53-6-113, MCA
IMP: 53-6-111, MCA

37.85.1125 DENIALS AND APPEALS

AUTH: 53-6-113, MCA

IMP: 53-6-111, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to repeal ARM 37.85.1101 through 37.85.1125, which established the requirements for the Montana Medicaid Provider Incentive Program for Electronic Health Records.

The Montana Medicaid Provider Incentive Program for Electronic Health Records (E.H.R.) was a six-year incentive program beginning in 2011, established pursuant to the Health Information Technology for Economic and Clinical Health (HITECH) Act, enacted as part of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 (Feb. 17, 2009). This incentive program has since ended. Since the incentive program ended in 2017, the department proposes to repeal ARM 37.85.1101 through 37.85.1125 as unnecessary.

5. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Bailey Yuhas, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena MT 59604-4210, no later than 5:00 p.m. on January 17, 2025. Comments may also be faxed to (406) 444-9744 or e-mailed to hhsadminrules@mt.gov.

6. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Bailey Yuhas at the above address no later than 5:00 p.m., January 17, 2025.

7. If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Since this incentive program ended in 2017, there are no people or members who could be directly affected by the proposed rulemaking action.

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 5 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 repeal of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Greg Henderson
Greg Henderson
Rule Reviewer

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

Certified to the Secretary of State December 10, 2024.