

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, 37.85.105, and ) PROPOSED AMENDMENT  
37.88.101 pertaining to updating )  
Medicaid and non-Medicaid provider )  
rates, fee schedules, and effective )  
dates )

TO: All Concerned Persons

1. On October 11, 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 rules. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: <https://mt-gov.zoom.us/j/89457521709?pwd=oxGGfYaNLm43naKpY8GnS7UTNuHiea.1> meeting ID: 894 5752 1709, and password: 804400; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 894 5752 1709, and password: 804400. Find your local number: <https://mt-gov.zoom.us/j/89457521709?pwd=oxGGfYaNLm43naKpY8GnS7UTNuHiea.1>.

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 September 27, 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 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 ~~January 1, 2024~~ October 1, 2024, 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/bhdd/BHDDMedicaidServicesProviderManual>.

(3) remains the same.

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

37.85.105 EFFECTIVE DATES, CONVERSION FACTORS, POLICY ADJUSTERS, AND COST-TO-CHARGE RATIOS OF MONTANA MEDICAID PROVIDER FEE SCHEDULES (1) through (4) remain the same.

(5) The department adopts and incorporates by reference, the fee schedule for the following programs within the Behavioral Health and Developmental Disabilities Division on the date stated:

(a) The mental health center services for adults fee schedule, as provided in ARM 37.88.907, is effective ~~July 1, 2023 (fee schedule version 2)~~ and July 1, 2024 October 1, 2024.

(b) through (6) remain the same.

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

IMP: 53-2-201, 53-6-101, 53-6-125, 53-6-402, 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 ~~January 1, 2024~~ October 1, 2024, 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/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

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.27.902, 37.85.105, and 37.88.101, pertaining to updating Medicaid provider rates, fee schedules, and effective dates and updating the BHDD Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health. The department administers the Montana Medicaid and non-Medicaid program to provide health care to Montana's qualified low income, elderly, and disabled residents. Medicaid is a public assistance program paid for with state and federal funds

appropriated to pay health care providers for the covered medical services they deliver to Medicaid members.

Pursuant to 53-6-113, MCA, the Montana Legislature has directed the department to use the administrative rulemaking process to establish rates of reimbursement for covered medical services provided to Medicaid members by Medicaid providers. The department proposes these rule amendments to establish Medicaid rates of reimbursement. In establishing the proposed rates, the department considered as primary factors the availability of funds appropriated by the Montana legislature during the 2023 regular legislative session, the actual cost of services, and the availability of services.

Proposed changes to provider rates that are the subject of this rule notice, including rates in fee schedules and rates in provider manuals, can be found at <https://medicaidprovider.mt.gov/proposedfs>.

The following sections explain proposed amendments to the following specific subsections: ARM 37.85.105 and 37.88.101.

ARM 37.85.105(5)(a)

Behavioral Health and Developmental Disabilities Division Fee Schedules – July 1, 2024

The department is proposing to amend the effective date to October 1, 2024, for the following fee schedules: mental health center services for adults. This is necessary to update provider rates to reflect changes to the BHDD Medicaid Provider Manual. Updates to the mental health fee schedule include the removal of InPACT and amending the allowable units for CMP.

ARM 37.27.902 Substance Use Disorder Services: Authorization Requirements and ARM 37.88.101 Medicaid Mental Health Services for Adults, Authorization Requirements

The department is proposing to amend the effective date to October 1, 2024, for the BHDD Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health. This is necessary to ensure that the manual includes new and updated policies and service requirements to address issues identified through stakeholder engagement. This includes the following amendments to the BHDD Medicaid Manual:

- Policy 230 - Integrated Service Delivery
  - Amend policy to include new Policy 465 Community Maintenance Program (CMP) and remove targeted case management as a concurrent service for ASAM 2.1 and ASAM 3.1.
- Policy 445 - Behavioral Health Group Home
  - Amend medical necessity criteria language to be objective to support utilization management and avoid provider confusion.
- Policy 460 - Program of Assertive Community Treatment
  - Amend language to align the policy with SAMHSA's ACT toolkit to ensure fidelity of the model.

- Add training requirements for core PACT team members to standardize training across providers.
- Change required staff FTE to include prescriber, team lead, nurse(s), co-occurring clinician(s), employment specialist(s), peer support specialist, and administrative assistant to align with fidelity standards.
- Add requirement for minimum 10:1 client-to-staff ratio (prescriber and administrative assistant not included in ratios) to align with fidelity standards.
- Add clarifying language regarding required service components including frequency, service location, and allowance for telehealth to align with fidelity standards.
- Remove Community Maintenance Program (CMP) from this policy. A new proposed policy for CMP will be added to specifically define medical necessity, provider requirements, service requirements, and utilization management.
- Remove InPact from the policy due to lack of utilization by providers.
- Policy 455 - Montana Assertive Community Treatment
  - Change title of service to Montana Community Treatment (MCT) from the Assertive Community Treatment Model as this model is not fully aligned with fidelity and should reflect Montana specific requirements.
  - Amend language to better align the policy with SAMHSA's ACT toolkit to ensure standards of the model as modified for Montana to address frontier areas.
  - Change required staff FTE to include prescriber, team lead, nurse(s), co-occurring clinician(s), MCT generalist(s), and administrative assistant to align with Montana specific requirements.
  - Add requirement for minimum 10:1 client to staff ratio (prescriber and administrative assistant not included in ratios) to align with Montana specific requirements.
  - Add clarifying language regarding required service components including frequency, service location, and allowance for telehealth to align with Montana specific requirements.
- Policy 455QM - Montana Assertive Community Treatment Quality Measures
  - Amend language to indicate measures identified by stakeholders.
  - Amend title to reflect new and updated language to include PACT and MCT quality measures.
- Policy 465 Community Maintenance Program (CMP)
  - Add new policy for CMP that will define medical necessity, provider requirements, service requirements, and utilization management. Service can be offered by PACT and MCT teams as a step-down service for clients that no longer need the intensity of PACT or MCT.

- Policy 525 SUD Intensive Outpatient (IOP) Therapy (ASAM 2.1)
  - Amend language to clarify that care coordination is required, but not included in the bundled rate. This is necessary to align with changes in Policy 230 and reflect requirements in the ASAM Criteria.
- Policy 535 SUD Clinically Managed Low-Intensity Residential (ASAM 3.1)
  - Amend language to clarify that care coordination is required, but not included in the bundled rate. This is necessary to align with changes in Policy 230 and reflect requirements in the ASAM Criteria.

The draft manual may be viewed at <https://dphhs.mt.gov/bhdd/SubstanceAbuse/ProviderManualsandProgramResources>

Fiscal Impact

The fiscal impact of the proposed rule amendment is identified in the table below. The fiscal impact shown in the table below is a result of changes to the mental health fee schedule which the department is proposing to remove InPACT due to lack of utilization and increase the allowable monthly units for CMP.

The following table displays the number of providers affected by the amended fee schedules, effective dates, conversion factors, and rates for services for SFY 2025.

Provider Type	SFY 2025 Budget Impact (Federal Funds)	SFY 2025 Budget Impact (State Funds)	SFY 2025 Budget Impact (Total Funds)	Active Provider Count
Mental Health Center	\$557,498.90	\$264,770.86	\$822,269.76	6

5. The department intends to apply these rule amendments retroactively to be effective October 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., October 18, 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 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 September 10, 2024.