MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF ADOPTION

MAR NOTICE NO. 37-1110

Summary

Amendment of ARM 37.27.902, 37.85.105, and 37.88.101 pertaining to updating Medicaid and non-Medicaid provider rates, fee schedules, and effective dates

Previous Notice(s) and Hearing Information

On December 20, 2024, the Department of Public Health and Human Services published MAR Notice No. 37-1110 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 2629 of the 2024 Montana Administrative Register, Issue Number 24. A supplemental notice was published on February 21, 2025, in Issue Number 4 of the 2025 Montana Administrative Register, extending the comment period to March 21, 2025.

A hearing was held on January 13, 2025.

Final Rulemaking Action – The department intends to apply the rule amendments retroactively to January 1, 2025.

AMEND AS PROPOSED

The department has amended the following rules as proposed:

37.27.902 SUBSTANCE USE DISORDER SERVICES: AUTHORIZATION REQUIREMENTS

37.85.105 EFFECTIVE DATES, CONVERSION FACTORS, POLICY ADJUSTERS, AND COST-TO-CHARGE RATIOS OF MONTANA MEDICAID PROVIDER FEE SCHEDULES

NOT ADOPTING

The department has decided not to amend the following rule as proposed:

37.88.101 MEDICAID MENTAL HEALTH SERVICES FOR ADULTS, AUTHORIZATION REQUIREMENTS

Statement of Reasons

The agency has considered the comments and testimony received. A summary of the comments received, and the agency's responses are as follows:

COMMENT #1: A commenter asked if the removal of case management in Policy 530 as a service component means providers can bill for targeted case management concurrently with ASAM 2.5.

RESPONSE #1: Case management must be made available to members receiving ASAM 2.5 services. However, it is not a skilled treatment service and does not count towards the required hours. It is billable concurrently.

COMMENT #2: A commenter requested the proposed changes in Policy 530, ASAM level 2.5, Service Requirements #8 and #9, which removed case management as a service component, be added to Policy 525, ASAM 2.1 services.

RESPONSE #2: The department thanks the commenter for the comment. The changes noted were proposed changes to Policy 525 in MAR Notice No. 37-1104. The department had overlooked Policy 530 at the time of that rulemaking and included it with this rulemaking upon receiving a comment during the previous rulemaking. The adoption notice can be found at: https://dphhs.mt.gov/assets/rules/37-1104adp-arm.pdf.

COMMENT #3: A commenter asked if case management must be made available to all members receiving ASAM 2.5 services. The commenter also asked if it is a separately billable service that does not count towards the required 20 hours for ASAM 2.5.

RESPONSE #3: Yes, it is correct that case management must be made available to members receiving ASAM 2.5 services. It does not count toward the required 20 hours for ASAM 2.5. It is a separately billable service.

COMMENT #4: A commenter recommended adding clarification to Policy 600 regarding reimbursement rules. The commenter indicated the policy suggests there are other reimbursement rules separate from the policies in this rulemaking and asked if providers bill according to the proposed fee schedule or some other fee schedule.

RESPONSE #4: HEART Waiver services are separate from other BHDD policies. The department will amend the language to clarify that HEART Waiver Services must be billed according to the proposed Medicaid Mental Health services for individuals 18 years of age and older provider fee schedule. However, it is important to note that, in order to remain Medicaid providers in good standing and eligible for Medicaid reimbursement, such providers remain subject to the state and federal Medicaid requirements applicable to their provider type(s). That is the intended meaning of the statement in Policy 600 concerning compliance with provider type reimbursement rules. ARM 37.85.401 states that, as a condition of participation in the Montana Medicaid Program, all providers must comply with all applicable state and federal statutes, rules, and regulations, including federal regulations and statutes found in Title 42 of the Code of Federal Regulations and the United States Code governing the Medicaid Program and all applicable Montana statutes and rules governing licensure and certification. Thus, for example, tenancy support services are authorized for reimbursement under a Medicaid waiver as a home and community-based service and providers seeking reimbursement for such services are required to comply with the applicable settings requirements set forth in 42 CFR 441.301(c)(4) and reporting of critical incidents defined in 42 CFR 441.302(a)(6)(i)(A).

COMMENT #5: A commenter asked if the language in Policy 603 requiring members to be referred for tenancy support services and the referral form being made available on the department website or through the department's designee means all individuals referred to TSS will be referred to work with someone from the state.

RESPONSE #5: Members who need tenancy support services must be referred by using the form or calling Mountain Pacific, which is contracted with the department to perform utilization management. Mountain Pacific completes an eligibility assessment screening, which is the process that determines if the member meets established criteria to participate in Tenancy Support Services. The department will amend the language to clarify that eligibility is determined by Mountain Pacific, which is also performing utilization management for other Medicaid services.

COMMENT #6: A commenter asked whether case managers will continue to connect members with housing resources, or be required to make referrals to the department's designee for the member to receive tenancy support services.

RESPONSE #6: Case managers may still connect members with housing resources as part of assisting members in gaining access to needed medical, social, educational, and other services. If the member is receiving targeted case management, service requirements are listed in Policies 405 and 510 of the BHDD Medicaid Provider Manual. Tenancy Support Services (TSS) are a waiver service with separate criteria and if a member receives TSS, providers must adhere to Policy 605.

COMMENT #7: A commenter asked if the state is the only organization working with people for Tenancy Support Service or can organizations hire tenancy specialists?

RESPONSE #7: The state does not provide direct services. To be reimbursed for Tenancy Support Services, qualified providers must employ a Tenancy Support Specialist that meets one of the following requirements:

(a) Associate degree in human services, social services, public health, or related field from an accredited college or university; or

(b) High school graduate or High School Equivalency (GED or HiSET), along with one year of relevant work experience, as determined by the service providing agency.

COMMENT #8: A commenter asked the department to identify the independent contractor referenced in Policy 603. The commenter asked if the independent contractor is a person with the state or are the tenancy specialists that organizations hire, being referenced as independent contractors.

RESPONSE #8: The department's current independent contractor is Mountain Pacific. Mountain Pacific is a Quality Improvement Organization (QIO) contracted by the department to provide utilization management for Medicaid services. The department will amend language in Policy 603 to clarify the Utilization Review contractor means Mountain Pacific, the contracted QIO.

COMMENT #9: The department received a number of comments on Contingency Management (CM). These comments included questions on the unit of service for CM, which StimUD services can be reimbursed concurrently with CM services, and other questions on the fee schedule and/or the CM policies. For example, a commenter recommended the department add clarification regarding the proposed fee schedule because there is no indication of what constitutes one unit for contingency management (e.g., per 15 minutes, per session, per encounter, etc.). The commenter noted that some providers need more than 15 minutes to complete a contingency management (CM) session with a member, and if the CM session is at least 22 minutes in length, they bill for two 15-minute CM session increments.

RESPONSE #9: The department welcomes and thanks the public for their comments on providing reimbursement for Contingency Management Services. In addition to the lack of clarity identified by the comments referenced above, the department identified an error with the proposed contingency management reimbursement that needs to be addressed outside of this rulemaking. As a result, contingency management will be removed from the fee schedule proposed in this rulemaking to allow the department time to improve its CM policies and to clarify and/or correct issues with respect to CM reimbursement. Reimbursement for tenancy support services will proceed as proposed. Therefore, the department is not adopting ARM 37.88.101 in this rulemaking.

As noted above, the department received several comments asking for additional clarification related to Contingency Management services as outlined in Policy 610 and the references to Contingency Management in Policy 505. The department will include the above-mentioned Contingency Management policies in a rulemaking in the near future. The department will

consider the comments it received on Contingency Management as it updates and clarifies its policies and reimbursement requirements on Contingency Management services for that rulemaking.

COMMENT #10: A commenter asked if the reimbursement for family therapy could be increased.

RESPONSE #10: The procedure codes for family therapy are found on the proposed resource-based relative value scale (RBRVS) fee scheduled. The department uses the reimbursement methodology described in ARM 37.85.212. To ensure consistency across services through a developed rate methodology, the department cannot consider an increase at this time.

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Approval

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Department of Public Health and Human Services