

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 January 13, 2025, at 10:00 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/86055893560?pwd=vQKJb4QaJbN8XyShrZvZOlitfDnmyd.1>, meeting ID: 860 5589 3560, and password: 532576; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 860 5589 3560, and password: 532576. Find your local number: <https://mt-gov.zoom.us/u/ksS33DknA>.

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 no later than 5:00 p.m. on December 30, 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~~ January 1, 2025, 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, ~~400 N. Park, Ste. 300~~ 301 S. Park, Suite 320, P.O. Box 202905,

Helena, MT 59620-2905 or at:

<https://dphhs.mt.gov/bhdd/BHDDMedicaidServicesProviderManual>.

(3) In addition to the requirements contained in rule, the department has developed and published the BHDD Division Non-Medicaid Services Provider Manual for Substance Use Disorder, dated January 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, ~~400 N. Park, Ste. 300~~ 301 S. Park, Suite 320, P.O. Box 202905, Helena, MT 59620-2905 or at:

<https://dphhs.mt.gov/bhdd/BHDDNonMedicaidServicesProviderManual>.

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) and (2) remain the same.

(a) Resource-based relative value scale (RBRVS) means the version of the Medicare resource-based relative value scale contained in the Medicare Physician Fee Schedule adopted by the Centers for Medicare & Medicaid Services (CMS) of the U.S. Department of Health and Human Services and published at 88 Federal Register 78818 (Nov. 16, 2023), effective January 1, 2024, which is adopted and incorporated by reference. Procedure codes created after ~~January 1, 2024~~ January 1, 2025, will be reimbursed using the relative value units from the Medicare Physician Fee Schedule in place at the time the procedure code is created.

(b) Fee schedules are effective ~~January 1, 2024~~ January 1, 2025. The fee schedules are applicable to claims for services that are provided on or after the effective date. Prior fee schedules remain applicable to claims for services provided prior to that date, and July 1, 2024. When two dates are specified, the earlier fee schedule ceases to be effective with respect to services provided on and after the effective date of the later fee schedule.

~~(i) Effective July 1, 2023, the conversion factor for physician services is \$44.32. The conversion factor for allied services is \$26.13. The conversion factor for mental health services is \$22.67. The conversion factor for anesthesia services is \$32.04.~~

~~(ii)(i) Effective July 1, 2024, the~~ The conversion factor for physician services is \$43.96. The conversion factor for allied services is \$27.24. The conversion factor for mental health services is \$22.47. The conversion factor for anesthesia services is \$31.78.

(c) through (h) remain the same.

(i) Optometric services receive a 114.45% provider rate of reimbursement adjustment to the reimbursement for allied services, as provided in ARM 37.85.105(2), effective July 1, 2024.

~~(i) Effective July 1, 2023, the optometric services provider rate of reimbursement is 115.50%.~~

~~(ii) Effective July 1, 2024, the optometric services provider rate of reimbursement is 114.45%.~~

(j) through (3)(a) remain the same.

(b) The outpatient hospital services fee schedules including:

(i) the Outpatient Prospective Payment System (OPPS) fee schedule as published by the CMS in 89 Federal Register ~~9002 93912 (Feb. 9, 2024) (Nov. 27, 2024)~~, effective ~~January 1, 2024~~ January 1, 2025, and reviewed annually by CMS, as required in 42 CFR 419.50 and as updated by the department;

(ii) through (iv) remain the same.

(c) The hearing aid services fee schedule, as provided in ARM 37.86.805, is effective ~~January 1, 2024, and July 1, 2024~~ January 1, 2025.

(d) through (j) remain the same.

(k) Montana Medicaid adopts and incorporates by reference the Region D Supplier Manual, which outlines the Medicare coverage criteria for Medicare covered durable medical equipment, local coverage determinations (LCDs), and national coverage determinations (NCDs), as provided in ARM 37.86.1802, effective ~~January 1, 2024, and July 1, 2024~~ January 1, 2025. The prosthetic devices, durable medical equipment, and medical supplies fee schedule, as provided in ARM 37.86.1807, is effective ~~January 1, 2024, and July 1, 2024~~ January 1, 2025.

(l) through (p) remain the same.

(q) The ambulance services fee schedule, as provided in ARM 37.86.2605, is effective ~~January 1, 2024, and July 1, 2024~~ January 1, 2025.

(r) The audiology fee schedule, as provided in ARM 37.86.705, is effective ~~January 1, 2024, and July 1, 2024~~ January 1, 2025.

(s) The therapy fee schedules for occupational therapists, physical therapists, and speech therapists, as provided in ARM 37.86.610, are effective ~~January 1, 2024, and July 1, 2024~~ January 1, 2025.

(t) The optometric services fee schedule, as provided in ARM 37.86.2005, is effective ~~January 1, 2024, and July 1, 2024~~ January 1, 2025.

(u) remains the same.

(v) The lab and imaging services fee schedule, as provided in ARM 37.85.212(2) and 37.86.3007, is effective ~~January 1, 2024, and July 1, 2024~~ January 1, 2025.

(w) and (x) remain the same.

(y) The mobile imaging services fee schedule, as provided in ARM 37.85.212, is effective ~~January 1, 2024, and July 1, 2024~~ January 1, 2025.

(z) The licensed direct-entry midwife fee schedule, as provided in ARM 37.85.212, is effective ~~January 1, 2024, and July 1, 2024~~ January 1, 2025.

(aa) through (5) remain the same.

(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~~ January 1, 2025.

(b) remains the same.

(c) The substance use disorder services fee schedule, as provided in ARM 37.27.905, is effective ~~July 1, 2024~~ January 1, 2025.

(6) remains 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~~ January 1, 2025, 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, 301 S. Park, Suite 320 ~~400 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 of Medicaid fee schedules, and to updating the BHDD Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health. On September 20, 2024, the department published MAR Notice No. 37-1104 pertaining to the public hearing on the proposed updating of Medicaid and non-Medicaid provider rates, fee schedules, and effective dates at page 2173 of the 2024 Montana Administrative Register, Issue 18. That notice also proposed amendments to ARM 37.27.902, 37.85.105, and 37.88.101, updating (1) the BHDD Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health for services related to Program of Assertive Community Treatment (PACT), Montana Assertive Community Treatment (now called Montana Community Treatment), Community Maintenance Program (CMP), and Behavioral Health Group Homes (BHGHS), and (2) the mental health center services for adults fee schedule with respect to CMP services. This notice (MAR Notice No. 37-1110) proposes amendments to that provider manual and fee schedule for services related to tenancy support and contingency management. It should be noted that the changes proposed in MAR Notice No. 37-1104 are independent of the changes being proposed in this notice. MAR Notice No. 37-1104 remains pending and will be finalized separately from this notice.

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.

The proposed rule amendments are necessary so that the Montana Medicaid Program can adopt updated Medicare procedure codes that the federal Centers for Medicare & Medicaid Services (CMS) will adopt in January 2025. Montana Medicaid uses Medicare procedure codes. To ensure providers can accurately and timely bill for services they provide to Medicaid members, the department must adopt CMS's updated Medicare rates. Final Medicaid fee schedules are posted after CMS publishes its final fee schedules. The updated codes include new code additions, code deletions, and changes to existing code descriptions and rates. In addition, the department proposes to amend the BHDD Medicaid Services Provider Manual for Substance Use Disorder and Adult Mental Health to ensure that the manual includes new policies and service requirements to address the addition of new services approved under the Social Security Act § 1115 HEART Waiver.

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 proposed amendments are explained below.

ARM 37.27.902 SUBSTANCE USE DISORDER SERVICES: AUTHORIZATION REQUIREMENTS

ARM 37.88.101 MEDICAID MENTAL HEALTH SERVICES FOR ADULTS, AUTHORIZATION REQUIREMENTS

The department is proposing to amend the effective date to January 1, 2025, 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 policies and service requirements to address the addition of new services approved under the Social Security Act § 1115 HEART Waiver. This waiver from CMS permits the department to further implement its Healing and Ending Addiction through Recovery and Treatment (HEART) Initiative through the addition of tenancy support and contingency management coverage to the Montana Medicaid Program.

The HEART Initiative will establish a comprehensive continuum of care to address Montana's behavioral health needs, which include services for mental health and

substance use disorder treatment. The HEART Initiative represents the state's commitment to expanding coverage and promoting access to prevention, crisis intervention, treatment, and recovery services for eligible Montanans.

Tenancy support services address the problem of homelessness that negatively impacts the mental health and substance use of many Montanans. Covering such services will help advance Montana's objective of providing preventative, whole-person, and community-based care by addressing housing insecurity and homelessness, which contribute to poor health outcomes. It will also advance efforts to expand the continuum of behavioral health and treatment programs by helping provide stable housing to Medicaid beneficiaries with behavioral health needs.

The department proposes that tenancy support services be delivered by designated providers and include both pre-tenancy supports (which support individuals with identifying, preparing for, and maintaining stable housing) and tenancy sustaining services (which assist individuals with finding housing, supporting move-in, working with landlords, and providing additional housing-related outreach and education to tenants). The department proposes that Medicaid beneficiaries may be eligible for Medicaid-funded tenancy support services if they are 18 years of age or older; have a qualifying substance use disorder and/or serious mental illness; and are experiencing, or at risk of, homelessness.

Contingency management is the most effective evidence-based treatment approach for stimulant use disorder. Under a contingency management program, individuals receive incentives following the submission of a stimulant-free urine sample, as part of a structured treatment program to reinforce behavioral change. Covering contingency management programs will help Montana address the ongoing substance use crisis. It will expand access to an effective evidence-based stimulant use disorder intervention and will also advance Montana's commitment to strengthen the full continuum of behavioral health and treatment programs for Montana communities.

The department proposes to cover contingency management as a structured 12-week intervention program where individuals who participate in the program can receive incentives for non-use of stimulants. The incentives help trigger the brain's reward systems in the absence of stimulant use. The department proposes that Medicaid beneficiaries may be eligible for Medicaid-funded contingency management if they are 18 years of age or older and have a stimulant use disorder.

To implement these new coverages, the department proposes the following amendments to the BHDD Medicaid Manual:

- Amend Policy 002 – Definitions to align new program terminology.
  - Incorporate new definitions in relation to the HEART Waiver manual such as a Serious Mental Illness, Point-of-Care testing, Clinical Laboratory Improvement Amendments, and Homelessness.

- Amend Policy 305 – Retrospective and Quality Reviews to align new program terminology.
  - TSS does not require clinical assessment and/or diagnosis. Retrospective and Quality reviews are determined on a case-by-case basis and eligibility criteria.
- Amend Policy 505 – Specimen Collection to align new program roles and responsibilities.
  - Add medical necessity criteria and service requirements for specimen collection specific to Contingency Management services.
- Amend Policy 530- SUD Partial Hospitalization (ASAM 2.5) Adult and Adolescent.
  - Amend language to clarify that care coordination is required, but not included in the bundled rate. This is necessary based on public comments on prior rulemaking.
- Add new Sub-manual policy section within the current BHDD Medicaid Manual: Section 600- HEART Waiver, encompassing new Policies 600, 602, 603, 604,605, 606, and 610.
- Add new Policy 600 – HEART Waiver Purpose.
  - Incorporates rules and regulations pertaining to programs developed under the HEART Waiver Authority.
- Add new Policy 602 – HEART Waiver Tenancy Support Services – Progress Notes.
  - Provider must include progress notes for each service contact in accordance with ARM 37.85.414 *Maintenance of Records and Auditing*.
- Add new policy 603 – HEART Waiver Tenancy Support Services – Eligibility and Enrollment.
  - Defines eligibility requirements and enrollment criteria.
- Add new policy 604 – HEART Waiver Tenancy Support Service- Housing Plan (Plan of care).
  - Individualized continuing care plan for each member utilizing HEART Waiver Authority.
  - Must include a summary of the services provided, including recommendations for aftercare services, relapse prevention, and referrals to other services.
- Add new Policy 605 – HEART Waiver Tenancy Support Services - Tenancy Support Services (TSS) are provided to assist members in acquiring and maintaining safe and reliable housing.
  - Define Assessment and Planning to include screening, assessment, and development of a housing plan to support a member's ability to identify, prepare for, and/or maintain stable housing.
  - Define Pre-Tenancy to include services to assist with the housing search; move-in support; working with landlords/property owners/property managers; and implementing housing plan goals and outcomes, including connection to additional supportive services.

- Define Tenancy Sustaining to include services provided once a member is housed, and may include additional education to the member, if needed; monitoring; and follow-up.
- Add new Policy 606- HEART Waiver Tenancy Support Services – Application Fees and Security Deposit Assistance.
  - Define Tenancy Support Services allowed for reimbursement to include:
    - Application fees up to a maximum amount of \$250.00, annually, from date of approved prior authorization.
    - Security deposit assistance up to a maximum amount of \$1650.00, annually, from date of security deposit payment to landlord.
- Add new BHDD Policy 610 Contingency Management.
  - Define the service.
  - Identify eligibility requirements and medical necessity criteria.
  - Define standards for eligible Contingency management providers.
  - Define service requirements.

ARM 37.85.105 Effective Dates, Conversion Factors, Policy Adjusters, and Cost-to-Charge Ratios of Montana Medicaid Provider Fee Schedules

(2)(a) and (b) Resource-Based Relative Value Scale (RBRVS)

The department proposes to reimburse procedure codes created on or after January 1, 2025, using the relative value units currently in place, and then revise the fee schedule effective date to January 1, 2025, which is being revised to reflect the updated Medicare procedure codes adopted by the federal Medicare program. The department also proposes to clarify the claims service dates to which the fee schedules apply.

(3)(c), (q), (r), (s), (t), (v), (y), and (z) Fee Schedules

The department proposes to revise the effective date for the following fee schedules to January 1, 2025, to reflect the updated Medicare procedure codes adopted by CMS: hearing aid services, ambulance services, audiology, occupational therapists, physical therapists, and speech therapists, optometric services, lab and imaging services, and licensed direct-entry midwives fee schedules.

(3)(b)(i) Outpatient Prospective Payment System (OPPS) Federal Register

Effective January 1, 2025, the department proposes to adopt the Outpatient Prospective Payment System fee schedule published by CMS in the Nov. 27, 2024 Federal Register (effective January 1, 2025) for the OPPS reimbursement methodology. This adoption is necessary to ensure outpatient hospital updates are aligned with CMS.

(3)(k) Prosthetic Devices, Durable Medical Equipment, and Medical Supplies

The department proposes to revise the effective date of the reference to the Region D Supplier Manual to January 1, 2025, and revise the effective date of local



coverage determinations (LCDs) and national coverage determinations (NCDs), that are provided in ARM 37.86.1802, to January 1, 2025.

The department is also proposing to revise the effective dates for the durable medical equipment fee schedule to January 1, 2025, to reflect the Calendar Year 2025 Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) fee schedule. This will allow the department to update Medicare fees, additions, deletions, or changes to procedure codes when Medicare releases and updates their fee schedule.

(5)(a) and (c) Behavioral Health and Developmental Disabilities Division Fee Schedules

The department proposes to amend the effective date to January 1, 2025, for the following fee schedules: mental health center services for adults. This is necessary to update the fee schedule to reflect changes to the BHDD Medicaid Provider Manual. Proposed updates to the mental health fee schedule include the addition of Contingency Management and Tenancy Support Services policies and related amendments to other policies.

Fiscal Impact

The proposed rule amendments to ARM 37.85.105(2) and (3) are expected to be budget neutral.

The proposed rule amendment to ARM 37.85.105(5) is expected to have a fiscal impact. The following table displays the number of providers affected by the proposed amendments to the mental health fee schedule to add Tenancy Support Services, Tenancy Support Services Application Fees and Security Deposit Assistance, and Contingency Management 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
Contingency Management - 32, 55, 56, 59	\$193,164	\$82,824	\$275,988	Assuming 12-14
Tenancy - 89	\$542,276.92	\$232,515.08	\$774,792.00	16
Totals	\$735,440.92	\$315,339.08	\$1,050,780.00	-

5. The department intends to apply these proposed rule amendments retroactively to January 1, 2025. A retroactive application of the proposed rule amendments does not result in a negative impact to any affected party.

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., January 17, 2025.

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. Written requests 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/ Paula M. Stannard  
Paula M. Stannard  
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.