



Children, Families, Health, and Human Services Interim Committee

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62nd Montana Legislature

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TO: Committee Members

FROM: Julianne Burkhardt, Staff Attorney

RE: DPHHS Administrative Rule Activity

DATE: November 4, 2011

The Department of Public Health and Human Services (DPHHS) has filed the following notices with the Secretary of State's Office for publication in the Montana Administrative Register (MAR). (Notices in their entirety are available online at: <http://www.dphhs.mt.gov/legalresources/>)

MAR 2011 Issue No.17 (September 8, 2011) At page 1823 of the 2011 MAR, DPHHS has filed a NOTICE OF AMENDMENT indicating its final adoption of three rules related to Medicaid eligibility. The comments received focused on personal needs allowances for veterans.

MAR 2011 Issue No. 17 (September 8, 2011) At page 1805 of the 2011 MAR, DPHHS has filed a NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT regarding the amendment of 4 rules pertaining to Medicaid pharmacy reimbursement. The hearing was held on September 29, 2011, at 10 a.m. in the auditorium of the DPHHS building. According to DPHHS the proposed change will have no fiscal impact to DPHHS and no material effect on Medicaid recipients or Medicaid providers.

MAR 2011 Issue No. 17 (September 8, 2011) At page 1811 of the 2011 MAR, DPHHS has filed a NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT regarding the amendment of three rules pertaining to dialysis clinics. The hearing was held on September 28, 2011, at 1:30 p.m. in the auditorium of the DPHHS building. The proposed change implements a per diem of \$262 per day reimbursement for persons receiving dialysis who are covered only by Medicaid.

MAR 2011 Issue No. 17 (September 8, 2011) At page 1815 of the 2011 MAR, DPHHS has filed a NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT regarding the amendment of two rules related to permissive licensing facilities exclusion from subsidy child care programs. The hearing was held on September 29, 2011, at 1:30 p.m. in the auditorium of the DPHHS building. The proposed changes implement revisions to the Montana Child Care Manual that took effect on September 1, 2011.

MAR 2011 Issue No. 18 (September 22, 2011) At page 1978 of the 2011 MAR, DPHHS has

filed a NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT regarding the amendment of four rules related to the Low Income Energy Assistance Program (LIEAP). The hearing was held on October 12, 2011, at 10 a.m. in the auditorium of the DPHHS building. The proposed amendments pertain to eligibility for benefits and lowers the upper income limit needed to qualify for LIEAP benefits. Thus, some individuals and families will no longer qualify for benefits. According to DPHHS, although Congress has not yet appropriated funds for the LIEAP program for the 2011-2012 heating season, it is expected that benefit levels will be significantly lower than in the 2010-2011 heating season.

MAR 2011 Issue No.18 (September 22, 2011) At page 2045 of the 2011 MAR, DPHHS has filed a CORRECTED NOTICE OF ADOPTION, AMENDMENT, AND REPEAL indicating its final adoption of a series of rules pertaining to home and community-based services (HCBS) for the elderly and people with physical disabilities. The corrected notice was filed to correct an error in the numbering of the adopted rules in Title 37.

MAR 2011 Issue No.18 (September 22, 2011) At page 2047 of the 2011 MAR, DPHHS has filed a NOTICE OF ADOPTION AND REPEAL indicating its final adoption of a series of rules pertaining to the Montana Marijuana Act. The DPHHS received numerous comments on a number of issues. A major concern expressed was that DPHHS should verify that all applicants are not in custody, or under the supervision of the Department of Corrections (DOC) or the youth court. The DPHHS responded that it requires an attestation by all applicants that they are not under supervision and that they are conducting fingerprint background checks of all applicants.

MAR 2011 Issue No. 17 (September 8, 2011) At page 1815 of the 2011 MAR, DPHHS has filed an AMENDED NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT AND EXTENSION OF THE COMMENT PERIOD regarding the amendment of three rules pertaining to audiology and hearing aids. The amendments are designed to improve access to hearing aids for Medicaid recipients.

MAR 2011 Issue No. 20 (October 27, 2011) At page 2293 of the 2011 MAR the Department of Public Health and Human Services (DPHHS) has filed a NOTICE OF AMENDMENT indicating its final adoption of 3 rules related to audiology and hearing aids. No comments or testimony were received.

MAR 2011 Issue No. 20 (October 27, 2011) At page 2294 of the 2011 MAR, DPHHS has filed a NOTICE OF AMENDMENT indicating its final adoption of three rules related to dialysis clinics. The DPHHS received a comment supporting the proposed change because it simplifies the previous payment system.

MAR 2011 Issue No. 20 (October 27, 2011) At page 2295 of the 2011 MAR, DPHHS has filed a NOTICE OF AMENDMENT indicating its final adoption of 2 rules pertaining to permissive licensing facilities exclusion from subsidy child care programs. No comments or testimony were received.

MAR 2011 Issue No. 20 (October 27, 2011) At page 2292 of the 2011 MAR, DPHHS has filed a NOTICE OF AMENDMENT indicating its final adoption of an amendment to ARM 37.86.2907 pertaining to Medicaid inpatient hospital services. No comments or testimony were received.

MAR 2011 Issue No. 20 (October 27, 2011) At page 2286 of the 2011 MAR, DPHHS has filed a NOTICE OF AMENDMENT indicating its final adoption of a series of rules pertaining to licensure of laboratories conducting analyses of public water supplies. DPHHS received numerous comments and made changes to the proposed rules based upon the comments received.

MAR 2011 Issue No. 20 (October 27, 2011) At page 2246 of the 2011 MAR, DPHHS has filed a NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT regarding the amendment of four rules pertaining to TANF policy revisions. The hearing is scheduled for November 17, 2011, at 1:30 p.m. in the auditorium of the DPHHS building. The amendments are designed to incorporate changes in the TANF policy manual as well as changes to the parents as scholars program necessitated by SB 385.

MAR 2011 Issue No. 20 (October 27, 2011) At page 2241 of the 2011 MAR, DPHHS has filed a NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT regarding the amendment of three rules pertaining to Medicaid inpatient hospital services. The hearing is scheduled for November 16, 2011, at 10 a.m. in the auditorium of the DPHHS building. The proposed amendments are designed to incorporate the most recent federal standards published by the Centers for Medicare and Medicaid Services (CMS).

MAR 2011 Issue No. 20 (October 27, 2011) At page 2238 of the 2011 MAR, DPHHS has filed a NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT regarding the amendment of ARM 37.81.304 pertaining to Big Sky Rx premium change. The hearing is scheduled for November 16, 2011, at 10 a.m. in the auditorium of the DPHHS building. This rule is being amended to match the Low Income Subsidy (LIS) for Medicare Part D.

MAR 2011 Issue No. 20 (October 27, 2011) At page 2230 of the 2011 MAR, DPHHS has filed a NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT regarding the amendment of three rules pertaining to durable medical equipment and hearing aids. The hearing is scheduled for November 16, 2011, at 10 a.m. in the auditorium of the DPHHS building. These rules are being amended to reflect updated Medicaid and Medicare fees and rates of reimbursement.

MAR 2011 Issue No. 20 (October 27, 2011) At page 2234 of the 2011 MAR, DPHHS has filed a NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT regarding the amendment of two rules pertaining to mental health services for adults. The hearing is scheduled for November 16, 2011, at 1:30 p.m. in the auditorium of the DPHHS building. The amendments are designed to update and clarify Program of Assertive Community Treatment (PACT) standards to ensure consistent application of program requirements.

MAR 2011 Issue No. 20 (October 27, 2011) At page 2227 of the 2011 MAR, DPHHS has filed a **NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT** regarding the amendment of ARM 37.86.2207 pertaining to EPSDT reimbursement to correct a clerical error. The hearing is scheduled for November 16, 2011, at 10 a.m. in the auditorium of the DPHHS building.

MAR 2011 Issue No. 20 (October 27, 2011) At page 2222 of the 2011 MAR, DPHHS has filed a **NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT** regarding the amendment of three rules related to the concept of "credible allegation of fraud" under Medicaid. The hearing is scheduled for November 16, 2011, at 10 a.m. in the auditorium of the DPHHS building. These amendments are necessary for compliance with the Affordable Care Act (ACA).

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