

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

In the matter of the adoption of New Rule I pertaining to behavioral health targeted case management fee schedule) NOTICE OF PUBLIC HEARING ON PROPOSED ADOPTION)))

TO: All Concerned Persons

1. On July 27, 2017, at 10:00 a.m., the Department of Public Health and Human Services will hold a public hearing in the auditorium of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed adoption of the above-stated rule.

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 July 19, 2017, to advise us of the nature of the accommodation that you need. Please contact Kenneth Mordan, 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 dphhslegal@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I MEDICAID BEHAVIORAL HEALTH TARGETED CASE MANAGEMENT FEE SCHEDULE (1) The Montana Medicaid Program establishes provider reimbursement rates for medically necessary, covered services based on the estimated demand for services and the legislative appropriation and federal matching funds.

(2) The Department of Public Health and Human Services (department) adopts and incorporates by reference the Medicaid Behavioral Health Targeted Case Management Fee Schedule effective October 1, 2017 for the following programs within the Developmental Services Division (DSD) and the Addictive and Mental Disorders Division (AMDD):

(a) Targeted Case Management Services (TCM) for Youth with Serious Emotional Disturbance (SED), as provided in ARM 37.87.901;

(b) Targeted Case Management Services for Substance Use Disorders (SUD), as provided in ARM 37.86.4010; and

(c) Targeted Case Management Services for Adults with Severe Disabling Mental Illness (SDMI), as provided in ARM 37.86.3515.

(3) Copies of the department's current fee schedules are posted at <http://medicaidprovider.mt.gov> and may be obtained from the Department of Public

Health and Human Services, Health Resources Division, 1401 East Lockey, P.O. Box 202951, Helena, MT 59620-2951.

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

IMP: 53-2-201, 53-6-101, 53-6-402, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) administers the Montana 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 legislature delegates authority to the department to set the reimbursement rates Montana pays Medicaid providers for members' covered services.

The purpose of the proposed rule adoption is to update and set provider rates to take into consideration the funding appropriated by the 65th Montana Legislature. The department has determined the proposed rates are consistent with efficiency, economy, and quality of care. These rates are sufficient to enlist enough providers so that care and services under the Montana Medicaid program are available to the extent that such care and services are available to the general population in the geographic area.

The department is proposing to adopt New Rule I pertaining to establishing a Medicaid Behavioral Health Targeted Case Management Fee Schedule effective October 1, 2017. The proposed rule adoption is needed to: 1) reflect appropriations contained in House Bill 2 (HB2) adopted by the 65th Legislature; 2) reflect the mandated legislative reductions required to comply with Senate Bill (SB261) if revenue projections do not meet certain levels on August 15, 2017; and 3) begin the integration of behavioral health systems by standardizing reimbursement for targeted case management for substance use disorders and mental health.

The proposed rule adoption applies to services for all people and eligibility categories for Montana Medicaid, including the Montana Medicaid Health and Economic Livelihood Partnership (HELP) Program that serves the Medicaid Expansion population.

SB261 requires the department to decrease expenditures if certain state revenue levels are not achieved on August 15, 2017. The proposed rule adoption is proposed with an effective date of October 1, 2017, to comply with the reductions mandated by the legislature in anticipation that these revenue levels will not be met. If one of the necessary levels of revenue is received, the proposed reductions will be modified or eliminated prior to adoption of these rules. The department has chosen to notice this proposed rule adoption at this time rather than wait until after August 15, 2017, because delay of notice and implementation would increase the size of the

proposed reductions as the same dollar amount of reduction would need to occur over fewer months.

Due to anticipated decreases in revenues, the department is implementing an across the board decrease in payment for certain Medicaid services and supplies. The reduction needed to stay within legislatively approved appropriations in HB2 and SB261 is calculated at 3.47%. SB261 contains an additional reduction to targeted case management for adult and children's mental health of \$1,930,000 in SFY2018 to be allocated between the addictive and mental disorder and the developmental services divisions.

New Rule I

MAR Notice No. 37-788 proposes to remove Targeted Case Management (TCM) rates effective October 1, 2017 from the following fee schedules:

ARM 37.87.105(6)(b) Medicaid Youth Mental Health Services Fee Schedule, effective January 1, 2017;

ARM 37.87.105(5)(a) Case management services for adults with severe disabling mental illness reimbursement, as provided in ARM 37.86.3515, effective July 1, 2016; and

ARM 37.87.105(5)(b) Targeted case management services for substance use disorders, reimbursement, as provided in ARM 37.86.4010, effective July 1, 2016.

The department proposes to establish a new Medicaid Behavioral Health Targeted Case Management Fee Schedule effective October 1, 2017 as provided in New Rule I. The proposed rule adoption will align serious emotional disorder (SED), substance use disorder (SUD), and severe and disabling mental illness (SDMI) rates for TCM which is a necessary first step in integrating behavioral health programs. Integrated behavioral health means that any behavioral health service member's need can be provided within an agency seamlessly to the member and in most cases, are exactly the same services regardless of substance abuse or mental health need. Reimbursement and service requirements for TCM need to be the same.

In addition, the department proposes to reduce the TCM rates for SED, SUD, and SDMI to stay within legislative appropriations for HB2 and SB261.

Fiscal Impact

The proposed amendments to rates for services are as follows:

Medicaid Provider Type	SFY2018 State Funds Impact	SFY2018 Federal Funds Impact	SFY2018 All Funds Impact	Enrollment Provider Count
CASE MANAGEMENT - ADULT MENTAL HEALTH	(\$892,136)	(\$1,690,771)	(\$2,582,907)	19
CASE MANAGEMENT - CHILD MENTAL HEALTH	(\$1,224,878)	(\$2,321,382)	(\$3,546,260)	19
CASE MANAGEMENT - SUBSTANCE ABUSE	(\$1,060)	(\$2,002)	(\$3,062)	22
CASE MANAGEMENT - TOTAL	(\$2,118,074)	(\$4,014,155)	(\$6,132,229)	

The chart below identifies the number of members affected:

CASE MANAGEMENT - CHILD MENTAL HEALTH	CASE MANAGEMENT - SUBSTANCE ABUSE	CASE MANAGEMENT - ADULT MENTAL HEALTH
Number Affected: 4,588	Number Affected: 621	Number Affected: 3,730

5. The department intends the proposed rule adoption to be applied effective October 1, 2017.

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: Kenneth Mordan, 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 dphhslegal@mt.gov, and must be received no later than 5:00 p.m., August 4, 2017.

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 or may be made by completing a request form at any rules hearing held by the department.

9. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all

concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was notified by electronic mail (e-mail) on June 20, 2017.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption of the above-referenced rule 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, Attorney
Rule Reviewer

/s/ Mary E. Dalton acting for
Sheila Hogan, Director
Public Health and Human Services

Certified to the Secretary of State June 26, 2017.