

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

In the matter of the adoption of New) NOTICE OF PUBLIC HEARING ON
Rules I through IV and the repeal of) PROPOSED ADOPTION AND
ARM 37.87.1303, 37.87.1333, and) REPEAL
37.87.1335 pertaining to integrated)
co-occurring treatment provider)
requirements)

TO: All Concerned Persons

1. On September 8, 2016, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in Room 207 of the Department of Public Health and Human Services Building, 111 North Sanders, Helena, Montana, to consider the proposed adoption and repeal of the above-stated rules.

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 1, 2016, 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 rules as proposed to be adopted provide as follows:

NEW RULE I INTEGRATED CO-OCCURRING TREATMENT (ICT),

DEFINITIONS (1) "Community psychiatric supportive treatment (CPST)" means a treatment method that assists a youth and family members or other collaterals to identify strategies or treatment options associated with the youth's mental illness, with the goal of minimizing the negative effects of mental illness symptoms or emotional disturbances or associated environmental stressors which interfere with the youth's daily living, financial management, housing, academic or employment progress, personal recovery or resilience, family or interpersonal relationships, and community integration.

(2) "Fidelity" means adherence to the integrated co-occurring treatment (ICT) model, defined in (3). A program which adheres to the ICT model is more likely to replicate the positive outcomes of the model's initial implementation or testing.

(3) "Integrated co-occurring treatment (ICT) model" means the ICT model developed by the Center for Innovative Practices at Case Western Reserve University. Services are provided to the fidelity of the model in the home or community where the youth lives, with the goal of safely maintaining the youth in the least restrictive, most normative environment. The frequency and intensity of

services may fluctuate based on the needs and unique circumstances of the youth and family. ICT provides a family driven, comprehensive mix of integrated services designed to meet the mental health and substance abuse needs of the youth through implementation of the following services:

- (a) ICT therapeutic interventions as described in (6); and
- (b) CPST as described in (1).

(4) "ICT clinical supervisor" means a person who is an employee of a provider agency who is dually licensed as a mental health professional, as defined in ARM 37.87.102(3) and is a licensed addiction counselor (LAC), under 37-35-202, MCA.

(5) "ICT clinician" means a person who is an employee of a provider agency who:

(a) is licensed as a mental health professional, as defined in ARM 37.87.102(3), or is an in-training mental health professional, as defined in ARM 37.87.702(3); and

(b) is a LAC, or is a candidate for licensure, under 37-35-202, MCA, or will meet the requirements for candidacy under 37-35-202, MCA, within one year of hire and has completed ICT approved core training.

(6) "ICT therapeutic interventions" means crisis response and management; individual and family counseling matched to assessed readiness to change and assessed ability of youth and family, not to include group therapy; and behavioral management and skill training matched to assessed ability of youth and family.

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

IMP: 53-6-101, MCA

NEW RULE II INTEGRATED CO-OCCURRING TREATMENT (ICT),

ELIGIBILITY (1) ICT services are available to Medicaid eligible youth as defined in ARM 37.87.102.

(2) The youth must have a co-occurring substance use disorder (SUD) as defined by the most current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) and a serious emotional disturbance (SED) as defined in the Children's Mental Health Bureau's Medicaid Services Provider manual, adopted and incorporated by reference in ARM 37.87.903(8).

(3) The youth must undergo an integrated bio-psycho-social assessment which supports referral to the ICT program.

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

IMP: 53-6-101, MCA

NEW RULE III INTEGRATED CO-OCCURRING TREATMENT (ICT),

REQUIREMENTS (1) Providers of ICT must be trained in, and use, ICT as defined by the model.

(2) Providers who wish to provide ICT must undergo and pass the following provided by an entity approved by the department:

- (a) a readiness assessment; and
- (b) an annual fidelity review.

(3) An ICT team must have a minimum of one .125 full-time equivalent (FTE) ICT clinical supervisor and one FTE ICT clinician.

(4) One FTE ICT clinical supervisor may supervise up to eight FTE ICT clinicians.

(5) The ICT clinical supervisor must provide supervision as defined by the model, including:

(a) providing weekly one-on-one supervision; and

(b) providing weekly team case consultation to the ICT clinician who holds primary case responsibility.

(6) A clinical supervisor who is dually licensed as a licensed mental health professional and a licensed addiction counselor (LAC) must be available 24 hours a day, 7 days a week to the ICT clinicians.

(7) One FTE ICT clinician may provide services for up to six families at a time.

(8) The following requirements must be met, as described by the ICT model by the ICT clinical supervisor, the ICT clinicians, or both:

(a) conduct an average of three hours of ICT services per week with each family through the course of treatment at the frequency, location, and duration that are sufficient to meet the identified needs of the family, unless there is a documented reason that an average of three hours of service per week cannot be met; and

(b) provide 24 hours a day, 7 days a week, face-to-face or telephonic crisis response.

(9) Treatment begins when the family consents in writing to begin services.

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

IMP: 53-6-101, MCA

NEW RULE IV INTEGRATED CO-OCCURRING TREATMENT (ICT), REIMBURSEMENT AND AUTHORIZATION (1) A prior authorization (PA) request must be submitted to the Children's Mental Health Bureau no earlier than ten business days prior to the first date of the service for the youth. Requests received earlier than ten days prior to the admission of the youth, will be technically denied. If a request is received after the youth has been admitted, the request will be considered from the date the request was received by the department.

(2) The clinical reviewer will complete the PA review process within two business days of receipt of complete information and take one of the following actions:

(a) request additional information as needed to complete the review and the provider must submit the requested information within five business days of the request for additional information;

(b) authorize the PA for up to 180 days as medically necessary and generate notification to all appropriate parties if the request meets the medical necessity criteria; or

(c) defer the case to a board-certified psychiatrist for review and determination if the PA request does not appear to meet the medical necessity criteria.

(3) The board-certified psychiatrist will complete the review and determination within four business days of receipt of the information from the clinical reviewer.

(4) After a denial, a new PA request may be submitted only if there is new clinical information.

(5) The following services will not be reimbursed concurrently with ICT:

- (a) outpatient therapy;
- (b) home-support services;
- (c) community-based psychiatric rehabilitation and support;
- (d) therapeutic group home;
- (e) psychiatric residential treatment facility;
- (f) day treatment;
- (g) comprehensive school and community treatment;
- (h) acute inpatient hospital services; and
- (i) targeted case management.

(6) CPST services may be provided by the ICT team to a youth that is enrolled in partial hospitalization for up to 14 days.

(7) The ICT provider must provide to the family a document that explains which services cannot be reimbursed concurrently as well as the potential for repayment if such services are provided concurrently.

(8) ICT therapeutic interventions will be reimbursed as follows: procedure code H0040 at \$18.73 per 15-minute unit.

(9) CPST will be reimbursed as follows: procedure code H0039 UA at \$14.30 per 15-minute unit.

AUTH: 53-2-201, 53-6-113, MCA
IMP: 53-6-101, MCA

4. The department proposes to repeal the following rules:

37.87.1303 HOME AND COMMUNITY-BASED 1915(c) SERVICES BRIDGE WAIVER FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: FEDERAL AUTHORIZATION AND AUTHORITY OF STATE TO ADMINISTER PROGRAM found on page 37-21387 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA
IMP: 53-6-402, MCA

37.87.1333 HOME AND COMMUNITY-BASED 1915(c) SERVICES BRIDGE WAIVER FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: REIMBURSEMENT found on page 37-21411 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA
IMP: 53-6-402, MCA

37.87.1335 HOME AND COMMUNITY-BASED 1915(c) SERVICES BRIDGE WAIVER FOR YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE: NOTICE AND FAIR HEARING found on page 37-21413 of the Administrative Rules of Montana.

AUTH: 53-2-201, 53-6-113, 53-6-402, MCA
IMP: 53-6-402, MCA

5. STATEMENT OF REASONABLE NECESSITY

The department proposes to adopt New Rules I through IV and repeal ARM 37.87.1303, 37.87.1333, and 37.87.1335. Administrative rules 37.87.1303, 37.87.1333, and 37.87.1335 define the requirements for the Home and Community Based Services Bridge Waiver. The bridge waiver was terminated on March 1, 2016.

New Rules I through IV propose the requirements for Integrated Co-occurring Treatment (ICT). ICT is the model developed by the Center for Innovative Practices at Case Western Reserve University to treat youth with co-occurring severe emotional disturbance (SED) and substance use disorder (SUD). Services are provided in the home or community where the youth lives, with the goal of safely maintaining the youth in the least restrictive and most normative environment. The frequency and intensity of services may fluctuate based on the needs and unique circumstances of the youth and family. ICT provides a family driven, comprehensive mix of integrated services designed to meet the SED and SUD needs of the youth.

The Children's Mental Health Bureau (CMHB) has operationalized ICT through a grant from the Substance Abuse and Mental Health Services Administration (SAMHSA). Grant funding expires on September 29, 2016; therefore CMHB is proposing these rules to continue the ability to fund the program.

Specifically the department proposes the following:

NEW RULE I

The department proposes New Rule I as the definition section for the new ICT service. This is necessary because ICT is a new service model not previously defined in administrative rule.

NEW RULE II

The department proposes New Rule II as the eligibility requirements for youth receiving ICT services. This proposed new rule is necessary to ensure that only youth who meet the medical necessity criteria of this service, receive the service. This treatment model is specifically designed for youth who have both an SED and a SUD, one of which must be severe as described in the Diagnostic and Statistical Manual of Mental Disorders (DSM).

NEW RULE III

The department proposes New Rule III to describe the staffing, treatment, and clinical supervision requirements of the ICT model. This new rule is necessary to ensure that ICT providers adhere to the fidelity of the program model during the provision of ICT services.

NEW RULE IV

The department proposes New Rule IV to establish the requirements for requesting a prior authorization for ICT and to describe which services will not be reimbursed concurrently with ICT. This is necessary in order for providers of ICT to request prior authorization for reimbursement of ICT services. Additionally, by defining duplicative services, the department ensures compliance with ARM 37.87.903(1) pertaining to duplicative services.

ARM 37.87.1303, 37.87.1333, and 37.87.1335

The department is proposing to repeal these rules because the Home and Community Based Services Bridge Waiver was terminated on March 1, 2016.

Fiscal Impact

There is no anticipated fiscal impact due to this proposed rulemaking.

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., September 16, 2016.

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, do not apply.

11. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption and repeal 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 appropriate for performance-based measurement and therefore are subject to the performance-based measures requirement of 53-6-196, MCA.

The department will track and report the following performance-based measures:

Principal reason for the rule	Measurement	Data Collection Methods/Metrics	Period of Measurement
Provide Integrated Co-occurring Treatment (ICT) for youth with both a Severe Emotional Disturbance (SED) and also has a co-occurring substance abuse disorder using an evidence-based outpatient service addressing both issues.	Youth are served by ICT services.	Track claims data to determine how many claims are paid for ICT services per youth.	Annually.
Provide ICT services to the fidelity of the model.	ICT fidelity monitoring tool.	Providers will be required to have an outside contractor administer the ICT Model fidelity tool.	Annually.

/s/ Brenda K. Elias
Brenda K. Elias, Attorney
Rule Reviewer

/s/ Richard H. Opper
Richard H. Opper, Director
Public Health and Human Services

Certified to the Secretary of State August 8, 2016.