

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

In the matter of the amendment of)
ARM 37.85.104 and 37.85.105)
pertaining to the revision of fee)
schedules for Medicaid provider rates)
effective July 1, 2016)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On May 12, 2016, at 10:30 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 amendment 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 May 5, 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 amended provide as follows, new matter underlined, deleted matter interlined:

37.85.104 EFFECTIVE DATES OF PROVIDER FEE SCHEDULES FOR MONTANA NON-MEDICAID SERVICES (1) The department adopts and incorporates by reference the fee schedule for the following programs within the Addictive and Mental Disorders Division and Developmental Services Division on the dates stated:

(a) Mental health services plan provider reimbursement, as provided in ARM 37.89.125, is effective ~~July 1, 2015~~ July 1, 2016.

(b) 72-hour presumptive eligibility for adult-crisis stabilization services reimbursement for services, as provided in ARM 37.89.523, is effective ~~July 1, 2015~~ July 1, 2016.

(c) Youth respite care services, as provided in ARM 37.87.2203, is effective ~~October 1, 2015~~ July 1, 2016.

(d) Substance use disorder services provider reimbursement, as provided in ARM 37.27.908, is effective July 1, 2016.

(2) remains the same.

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

IMP: 53-2-201, 53-6-101, 53-6-111, MCA

37.85.105 EFFECTIVE DATES, CONVERSION FACTORS, POLICY ADJUSTERS, AND COST-TO-CHARGE RATIOS OF MONTANA MEDICAID PROVIDER FEE SCHEDULES (1) remains the same.

(2) The department adopts and incorporates by reference, the resource-based relative value scale (RBRVS) reimbursement methodology for specific providers as described in ARM 37.85.212 on the date stated.

(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 and Medicaid Services (CMS) of the U.S. Department of Health and Human Services and published at ~~79 Federal Register 217, page 67547 (November 13, 2014)~~ 80 Federal Register 220, page 70886 (November 16, 2015) effective ~~January 1, 2015~~ January 1, 2016 which is adopted and incorporated by reference. Procedure codes created after ~~January 1, 2015~~ January 1, 2016 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 ~~July 1, 2015~~ July 1, 2016. The conversion factor for physician services is ~~\$36.93~~ \$37.89. The conversion factor for allied services is ~~\$24.93~~ \$25.38. The conversion factor for mental health services is ~~\$24.55~~ \$24.90. The conversion factor for anesthesia services is ~~\$29.23~~ \$29.76.

(c) Policy adjusters are effective ~~July 1, 2015~~ July 1, 2016. The maternity policy adjuster is 112%. The family planning policy adjuster is 105%. The psychological testing for youth policy adjuster is 145%. The psychological testing policy adjuster applies only to psychologists.

(d) The payment-to-charge ratio is effective ~~July 1, 2015~~ July 1, 2016 and is 47% of the provider's usual and customary charges.

(e) The specific percentages for modifiers adopted by the department are effective ~~July 1, 2015~~ July 1, 2016.

(f) Psychiatrists receive a 112% provider rate of reimbursement adjustment to the reimbursement of physicians effective ~~July 1, 2015~~ July 1, 2016.

(g) Midlevel practitioners receive a 90% provider rate of reimbursement adjustment to the reimbursement of physicians for those services described in ARM 37.86.205(5)(b) effective ~~July 1, 2015~~ July 1, 2016.

(h) Optometric services receive a 112% provider rate of reimbursement adjustment to the reimbursement for allied services as provided in ARM 37.85.105(2) effective ~~July 1, 2015~~ July 1, 2016.

(i) Reimbursement for physician-administered drugs described at ARM 37.86.105 is determined at 42 CFR 414.904 (2016).

(3) The department adopts and incorporates by reference, the fee schedule for the following programs within the Health Resources Division, on the date stated.

(a) The inpatient hospital services fee schedule and inpatient hospital base fee schedule rates including:

(i) the APR-DRG fee schedule for inpatient hospitals as provided in ARM 37.86.2907, effective ~~July 1, 2015~~ July 1, 2016; and

(ii) the Montana Medicaid APR-DRG relative weight values, average national length of stay (ALOS), outlier thresholds, and APR grouper version ~~32~~ 33 are contained in the APR-DRG Table of Weights and Thresholds effective ~~July 1, 2015~~ July 1, 2016. The department adopts and incorporates by reference the APR-DRG Table of Weights and Thresholds effective ~~July 1, 2015~~ July 1, 2016.

(b) The outpatient hospital services fee schedules including:

(i) the Outpatient Prospective Payment System (OPPS) fee schedule as published by the Centers for Medicare and Medicaid Services (CMS) in ~~79~~ 80 Federal Register ~~217~~ 219, page ~~66769~~ 70298, ~~November 10, 2014~~ November 13, 2015, effective ~~July 1, 2015~~ July 1, 2016, and reviewed annually by CMS as required in 42 CFR 419.5 (2016) as updated by the department;

(ii) the conversion factor for outpatient services on or after ~~July 1, 2015~~ July 1, 2016 is ~~\$56.64~~ \$57.21;

(iii) the Medicaid statewide average outpatient cost-to-charge ratio is ~~46.3%~~ 45.2%; and

(iv) remains the same.

(c) The hearing aid services fee schedule, as provided in ARM 37.86.805, is effective ~~January 1, 2016~~ July 1, 2016.

(d) The Relative Values for Dentists, as provided in ARM 37.86.1004, reference published in ~~2015~~ 2016 resulting in a dental conversion factor of ~~\$33.18~~ \$33.78 and fee schedule is effective ~~January 1, 2016~~ July 1, 2016.

(e) The dental services covered procedures, the Dental and Denturist Program Provider Manual, as provided in ARM 37.86.1006, is effective ~~January 1, 2016~~ July 1, 2016.

(f) The outpatient drugs reimbursement, dispensing fees range as provided in ARM 37.86.1105(2)(b) is effective ~~July 1, 2015~~ July 1, 2016:

(i) a minimum of \$2.00 and a maximum of ~~\$4.94~~ \$8.47 for brand-name and nonpreferred generic drugs;

(ii) a minimum of \$2.00 and a maximum of ~~\$6.78~~ \$11.62 for preferred brand-name and generic drugs and generic drugs not identified on the preferred list.

(g) remains the same.

(h) The outpatient drugs reimbursement, vaccine administration fee as provided in ARM 37.86.1105(5), will be \$21.32 for the first vaccine and ~~\$13.37~~ \$13.00 for each additional administered vaccine, effective ~~July 1, 2015~~ July 1, 2016.

(i) and (j) remain the same.

(k) The home infusion therapy services fee schedule, as provided in ARM 37.86.1506, is effective ~~July 1, 2015~~ July 1, 2016.

(l) Montana Medicaid adopts and incorporates by reference the Region D Supplier Manual, ~~January 2016~~ effective July 1, 2016, 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, 2016~~ July 1, 2016. The prosthetic devices, durable medical equipment, and medical supplies fee schedule, as provided in ARM 37.86.1807, is effective July 1, 2015.

(m) ~~The early and periodic screening, diagnostic and treatment (EPSDT) services fee~~ Fee schedules for private duty nursing, nutrition, and orientation and

mobility specialists as provided in ARM 37.86.2207(2), ~~is~~ are effective ~~July 1, 2015~~ July 1, 2016.

(n) The transportation and per diem fee schedule, as provided in ARM 37.86.2405, is effective ~~July 1, 2015~~ July 1, 2016.

(o) The specialized nonemergency medical transportation fee schedule, as provided in ARM 37.86.2505, is effective ~~July 1, 2015~~ July 1, 2016.

(p) The ambulance services fee schedule, as provided in ARM 37.86.2605, is effective ~~July 1, 2015~~ July 1, 2016.

(q) The audiology fee schedule, as provided in ARM 37.86.705, is effective ~~July 1, 2015~~ July 1, 2016.

(r) The therapy fee schedules for occupational therapists, physical therapists, and speech therapists, as provided in ARM 37.85.610, are effective ~~July 1, 2015~~ July 1, 2016.

(s) The optometric fee schedule provided in ARM 37.86.2005, is effective ~~January 1, 2016~~ July 1, 2016.

(t) The chiropractic fee schedule, as provided in ARM 37.85.212(2), is effective July 1, 2016.

(u) The lab and imaging fee schedule, as provided in ARM 37.85.212(2) and 37.86.3007, is effective July 1, 2016.

(4) The department adopts and incorporates by reference, the fee schedule for the following programs within the Senior and Long Term Care Division on the date stated:

(a) Home and community-based services for elderly and physically disabled persons fee schedule, as provided in ARM 37.40.1421, is effective ~~July 1, 2015~~ July 1, 2016.

(b) Home health services fee schedule, as provided in ARM 37.40.705, is effective ~~July 1, 2015~~ July 1, 2016.

(c) Personal assistance services fee schedule, as provided in ARM 37.40.1135, is effective ~~July 1, 2015~~ July 1, 2016.

(d) Self-directed personal assistance services fee schedule, as provided in ARM 37.40.1135, is effective ~~July 1, 2015~~ July 1, 2016.

(e) Community first choice services fee schedule, as provided in ARM 37.40.1026, is effective ~~July 1, 2015~~ July 1, 2016.

(5) The department adopts and incorporates by reference, the fee schedule for the following programs within the Addictive and Mental Disorders Division on the date stated:

(a) Case management services for adults with severe disabling mental illness reimbursement, as provided in ARM 37.86.3515, is effective ~~July 1, 2015~~ July 1, 2016.

(b) Mental health center services for adults reimbursement, as provided in ARM 37.88.907, is effective ~~July 1, 2015~~ July 1, 2016.

(c) Home and community-based services for adults with severe disabling mental illness, reimbursement, as provided in ARM 37.90.408, is effective ~~October 1, 2015~~ July 1, 2016.

(d) Targeted case management services for substance use disorders, reimbursement, as provided in ARM 37.86.4010, is effective ~~July 1, 2015~~ July 1, 2016.

(6) The department adopts and incorporates by reference, the fee schedule for the following programs within the Developmental Services Division, on the date stated-:

(a) Mental health services for youth, as provided in ARM 37.87.901 in the Medicaid Youth Mental Health Services Fee Schedule, is effective ~~October 1, 2015~~ July 1, 2016.

(b) Mental health services for youth, as provided in ARM 37.87.1313 in the 1915(i) HCBS State Plan Program for Youth with Serious Emotional Disturbance Fee Schedule, is effective ~~July 1, 2015~~ July 1, 2016.

~~(c) Mental health services for youth, as provided in ARM 37.87.1303 in the 1915(c) HCBS Bridge Waiver for Youth with Serious Emotional Disturbance Fee Schedule, is effective July 1, 2015.~~

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

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

4. STATEMENT OF REASONABLE NECESSITY

SUMMARY OF PROPOSED AMENDMENTS TO ARM 37.85.104 AND 37.85.105

Provider rate increases contained in these two proposed rule amendments are a reflection of legislative appropriations contained in House Bill 2, 64th Legislature. Rate increases are calculated by dividing the 2015 Montana Legislature's appropriation for Medicaid member's health care during the upcoming state fiscal year (SFY) by the estimated total units of health care, to be provided during the upcoming SFY to derive a rate or fee. As part of the executive budget process in the summer of 2014, the department calculated a rate increase by multiplying expenditure projections for the providers affected in these proposed rules by 2%. These projections were done at a point in time prior to the submission of the November 2014 executive budget. The legislative branch adopted the executive projections in the form of a dollar amount. These 2014 projections were not adjusted during the 2015 legislative process to reflect changes in estimated inflation or utilization. Because they were not adjusted and they were done at a point in time, they no longer equal exactly 2%.

The rate methodology for the physician conversion factor and the pharmacy rate are also based on the legislative appropriation but differ in the ways described below.

Resource-Based Relative Value Scale (RBRVS) Methodology Summary

Many Montana Medicaid providers' rates are established through the resource-based relative value scale (RBRVS) model. RBRVS is used nationwide by most health plans, including Medicare and Medicaid. The relative value unit component of RBRVS is revised annually by the Centers for Medicare and Medicaid Services (CMS) and the American Medical Association. The department amends ARM 37.85.105 annually to adopt current relative value units (RVUs). An RVU is a numerical value assigned to each medical procedure. RVUs are based on physician

work, practice expense, and malpractice insurance expenses and express the relative effort and expense expended to provide one procedure compared with another. RVUs are added for new procedures and the RVUs of particular procedures may increase or decrease from year to year.

"Conversion factor" (CF) means a dollar amount by which RVUs are multiplied to establish the RBRVS fee for a service. The department annually calculates conversion factors for physician services, allied services, mental health services, and anesthesia services. These conversion factors are calculated by dividing the Montana Legislature's appropriation for Medicaid member's health care during the upcoming SFY by the estimated total units of health care, expressed as total RVUs, to be provided during the upcoming SFY. The resulting quotient is the conversion factor. The RVU for a procedure multiplied by the conversion factor is the fee paid for the procedure. In SFY 2017, the conversion factors for allied, mental health, and anesthesia services were calculated in this manner.

The conversion factor for licensed physicians is set by 53-6-125, MCA, and is based on the previous year increase in the consumer price index for medical services. In SFY 2017, the physician services conversion factor will increase from \$36.93 to \$37.89.

Proposed Pharmacy Rate Changes

In conjunction with an increase in the professional dispensing fee for pharmacy providers, Montana Medicaid will be implementing an Average Acquisition Cost (AAC) methodology for drug ingredient reimbursement. The methodology is outlined in MAR Notice No. 37-746 but the fiscal impact of both changes will be outlined in this rule notice, as they directly correlate. MAR Notice No. 37-746 has been published in conjunction with this rulemaking.

These summaries for ARM 37.85.104 and 37.85.105 are categorized according to the following divisions: Health Resources Division (HRD), Addictive and Mental Disorders Division (AMDD), Senior and Long Term Care Division (SLTC), and Developmental Services Division (DSD).

HRD's Proposed Amendments

HRD has no amendments to ARM 37.85.104. The following describes the proposed amendments that the HRD will make to ARM 37.85.105.

(2)(a): Update the reference effective date for the Federal Register regarding the Resource-Based Relative Value Scale (RBRVS) to July 1, 2016. Update the effective date in place regarding procedure codes being reimbursed using the relative value units from the Medicare Physician Fee Schedule in place to July 1, 2016.

(2)(b): Revise the effective date regarding RBRVS fee schedules to July 1, 2016. Update the conversion factor for physician services from \$36.93 to \$37.89, allied services from \$24.93 to \$25.38, mental health services from \$24.55 to \$24.90, and anesthesia services from \$29.23 to \$29.76.

(2)(c): Revise the effective date regarding policy adjustors to July 1, 2016.

(2)(e): Revise the effective date regarding the specific percentages for modifiers adopted by the department to July 1, 2016.

(2)(f): Revise the effective date regarding psychiatrist rate of reimbursement to July 1, 2016.

(2)(g): Revise the effective date regarding midlevel practitioner rate of reimbursement to July 1, 2016.

(2)(h): Revise the effective date regarding reimbursement of optometric services to July 1, 2016.

(3)(a)(i): Revise the effective date regarding the APR-DRG (inpatient hospital) fee schedule to July 1, 2016.

(3)(a)(ii): Revise the effective date regarding the APR-DRG Table of Weights and Thresholds to July 1, 2016. Update the APR-DRG grouper version from version 32 to version 33.

(3)(b)(i): Update the Federal Register from 79 Federal Register 217, page 66769, November 10, 2014 to 80 Federal Register 219, page 70298, November 13, 2015. Update the Federal Register reference to July 1, 2016.

(3)(b)(ii): Revise the effective date regarding the conversion factor for outpatient services to July 1, 2016. Update the conversion factor for outpatient services from \$56.64 to \$57.21.

(3)(b)(iii): Update the Medicaid statewide average outpatient cost-to-charge ratio from 46.3% to 45.2%.

(3)(c): Revise the effective date regarding the hearing aid services fee schedule to July 1, 2016.

(3)(d): Revise the Relative Value for Dentists publication date to 2016. Update the dental conversion factor from \$33.18 to \$33.78, and revise the fee schedule effective date to July 1, 2016

(3)(e): Revise the effective date regarding the Dental and Denturist Program Provider Manual to July 1, 2016.

(3)(f): Revise the effective date regarding outpatient drug dispensing fees to July 1, 2016.

(3)(f)(i): Update the maximum dispensing fee for brand-name and nonpreferred generic drugs from \$4.94 to \$8.47.

(3)(f)(ii): Update the maximum dispensing fee for preferred brand-name, generic drugs, and generic drugs not identified on the preferred list from \$6.78 to \$11.62.

(3)(h): Revise the effective date regarding outpatient drug reimbursement of vaccine administration to July 1, 2016. Update the fee for additional administered vaccines from \$13.37 to \$13.00.

(3)(k): Revise the effective date regarding home infusion therapy fee schedule to July 1, 2016.

(3)(l): Revise the effective date of the reference to the Region D Supplier Manual to July 1, 2016. Revise the effective date of local coverage determinations (LCDs), and national coverage determinations (NCDs) referenced in ARM 37.86.1802 to July 1, 2016.

(3)(m): Remove the reference to early and periodic screening, diagnostic and treatment (EPSDT) and update the effective date regarding the private duty nursing, nutrition, and orientation and mobility fee schedules to July 1, 2016.

(3)(n): Revise the effective date regarding the transportation and per diem fee schedule to July 1, 2016.

(3)(o): Revise the effective date regarding the nonemergency medical transportation fee schedule to July 1, 2016.

(3)(p): Revise the effective date regarding the ambulance services fee schedule to July 1, 2016.

(3)(q): Revise the effective date regarding the audiology services fee schedule to July 1, 2016.

(3)(r): Revise the effective date regarding the fee schedule for occupational therapists, physical therapists, and speech therapists to July 1, 2016.

(3)(s): Revise the effective date regarding the optometric fee schedule to July 1, 2016.

(3)(t): A new subsection is being added - the chiropractic fee schedule, as provided in ARM 37.85.212(2), is effective July 1, 2016.

(3)(u): A new subsection is being added - The lab and imaging fee schedule, as provided in ARM 37.85.212(2) and 37.86.3007, is effective July 1, 2016.

Fiscal Impact

The proposed amendments to ARM 37.85.105 regarding fees for services administered by the Health Resources Division will increase the Medicaid budget for SFY 2017 by the amount appropriated by the 2015, 64th Legislature for provider rate increases.

The following table estimates the number of providers affected by the increase, as well as the fiscal impact to state funds for SFY 2017:

Provider Type	SFY 2017 Budget Impact (All Funds)	SFY 2017 Budget Impact (GF and SSR Only)	SFY 2017 Budget Impact (Federal Funds)	Active Provider Count
Ambulance	\$196,041	\$67,652	\$128,389	202
Audiology	\$2,560	\$869	\$1,691	33
Dental	\$1,670,221	\$428,624	\$1,241,597	576
Denturist	\$71,342	\$25,156	\$46,186	20
Dialysis Clinic	\$111,431	\$39,313	\$72,118	24
Hearing Aid	\$7,655	\$2,643	\$5,012	49
Home Infusion Therapy	\$33,983	\$11,787	\$22,196	15
Inpatient Hospital	\$1,940,497	\$671,764	\$1,268,733	374
Nonemergency Medical Transportation	\$1,799	\$635	\$1,164	7
Nutrition	\$330	\$117	\$213	40
Occupational Therapists	\$62,328	\$21,035	\$41,293	130
Optician	\$3,010	\$985	\$2,025	36
Optometric	\$112,857	\$35,575	\$77,282	174
Orientation and Mobility	\$757	\$265	\$492	2
Physical Therapists	\$90,216	\$30,172	\$60,044	578
Outpatient Hospital	\$1,057,063	\$362,618	\$694,445	374
Private Duty Nursing	\$189,988	\$66,501	\$123,487	7
Speech Therapists	\$62,007	\$21,400	\$40,607	158
Targeted Case Management–High Risk Pregnant Women and Children and Youth with Special Health Needs	\$14,928	\$5,266	\$9,662	17

Transportation	\$125,254	\$44,190	\$81,064	N/A
Transportation–Commercial	\$14,064	\$4,956	\$9,108	8
Chiropractor	\$16,088	\$4,900	\$11,188	116
Midlevel Practitioners	\$336,651	\$115,942	\$220,709	2,916
Physician, including Family Planning Clinics, Independent Diagnostic Testing Facilities, Laboratory and X-Ray Services, Podiatrist, Psychiatrist and Dentists providing medical services, and Public Health Clinics	\$1,786,746	\$615,355	\$1,171,391	11,027

The changes to the pharmacy provider dispensing fee and the proposed pharmacy reimbursement rule (MAR Notice No. 37-746) have an administrative cost of \$139,583.31 in SFY 2016 and \$141,666.64 in SFY 2017. In addition, the proposed changes will result in a projected cost savings of \$4.3 million.

The proposed rule amendments are estimated to affect 176,700 Medicaid members. In addition, it will impact the provider populations outlined in the tables above.

Summary of Addictive and Mental Disorders Division (AMDD) Proposed Amendments

In the 2015 Legislative Session, a provider rate increase for SFY 2017 was appropriated for mental health and substance use disorder services. The proposed changes to the rules are to implement the provider rate increase for SFY 2017 and to ensure all services indicated in fee schedules provided by the Addictive and Mental Disorders and Medicaid are included in the appropriate rules.

Details of each rule change and necessity are provided below:

ARM 37.85.104

This rule implements fee schedules for services not paid for by Medicaid. The AMDD proposes amending ARM 37.85.104(a) and (b) to change the rates effective date of the fee schedules to July 1, 2016.

The department proposes amending ARM 37.85.104 to add a subsection (d) which adopts the current fee schedule for substance use disorder services providers.

ARM 37.85.105

This rule implements fee schedules for services paid for by Medicaid. AMDD proposes amending ARM 37.85.105(5)(a), (b), (c), and (d) to change the rates and effective date of fees schedules to July 1, 2016.

Fiscal Impact

The proposed amendments to ARM 37.85.104 and 37.85.105 regarding fees for services administered by the Addictive and Mental Disorders Division will increase the Medicaid and non-Medicaid budget for SFY 2017 by the amount appropriated by the 2015, 64th Legislature for provider rate increases.

Medicaid Services Provider Type	SFY 2017 Budget Impact (All Funds)	SFY 2017 Budget Impact (GF and SSR Only)	SFY 2017 Budget Impact (Federal Funds)	Active Provider Count
Mental Health Centers	\$376,288	\$133,163	\$243,125	10
Targeted Case Management – Substance Use Disorder	\$1,195	\$418	\$777	27
Case Management – Adults with Severe Disabling Mental Illness	\$189,441	\$67,041	\$122,400	10
Home and Community Based – Severe Disabling Mental Illness Waiver	\$81,800	\$28,944	\$52,856	6
Adult Mental Health Medicaid	\$545,555	\$193,065	\$352,490	16
Total	\$1,194,279	\$422,631	\$771,648	69

Approximately 1,000 Mental Health Services Plan (MHSP) waiver, 300 Home and Community Based Services (HCBS) waiver, 1,860 adult mental health program, and 5,065 substance use disorder program members will receive services in state fiscal year 2017 in one or more of these programs.

Non-Medicaid

Non-Medicaid Services Provider Type	SFY 2017 Budget Impact (All Funds)	SFY 2017 Budget Impact (GF and SSR Only)	SFY 2017 Budget Impact (Federal Funds)	Active Provider Count
72-Hour Program	\$31,813	\$31,813	\$0	7
Substance Use Disorder Block Grant	\$126,117		\$126,117	27
MHSP Program	\$121,781	\$121,781	\$0	10
Substance Use Disorder Residential Treatment Program	\$41,973	\$41,973	\$0	7
Total	\$321,684	\$195,567	\$126,117	51

Approximately 1,260 72-hour crisis intervention program, 4,865 substance use disorder block grant program, 600 MHSP program, and 220 substance use disorder residential treatment program members will receive services in SFY 2017 in one or more of these programs.

Summary of Senior and Long-Term Care Division's Amendments

SLTC's amendments to ARM 37.85.105 implement the legislatively appropriated provider rate increases for the following programs, effective on July 1, 2016:

Home and Community-Based Services (HCBS) Waiver Program

37.85.105(4)(a) - The fee increase is an \$802,835 appropriation for the HCBS Waiver Program.

Home Health Program

37.85.105(4)(b) - The fee increase is an \$11,040 appropriation for Home Health Program services.

Personal Assistance Services (PAS) Program

37.85.105(4)(d) - The fee increase is a \$16,991 appropriation for the PAS Program.

Community First Choice (CFC) Program

37.85.105(4)(e) - The fee increase is a \$1,216,742 appropriation for the CFC Program.

Fiscal Impact

The fee changes will impact all Medicaid home health, CFC/PAS, and HCBS waiver recipients and providers who utilize this service.

Approximately 350 home health, 3,200 CFC, 900 PAS, and 2,450 HCBS waiver members will receive services in state fiscal year 2017 in one or more of these programs.

Summary of Developmental Services Division's (DSD) Proposed Amendments

The department is proposing to amend ARM 37.85.104 and 37.85.105 to incorporate by reference the new fee schedules to implement the intent of HB2, 64th Montana Legislature appropriation.

ARM 37.85.104

This rule implements fee schedules for services not paid for by Medicaid. DSD proposes to increase the non-Medicaid rates for Medicaid Youth Mental Health respite services and change the effective date of the fee schedule to July 1, 2016.

ARM 37.85.105

DSD proposes to increase the rates Youth Mental Health services and 1915(i) HCBS State Plan Program for Youth with Serious Emotional Disturbance services and change the effective date to July 1, 2016.

Fee schedule references rates set by Montana Medicaid's resource based relative value scale (RBRVS) reimbursement method for psychologists, social workers, and professional counselors. The RBRVS is located in ARM 37.85.212 and is revised annually.

ARM 37.85.105(6)(c) - DSD proposes to repeal rates established in the 1915(c) HCBS "Bridge Waiver" fee schedule. The department terminated HCBS PRTF waiver authority on September 30, 2012. The Centers for Medicare and Medicaid Services (CMS) allowed Montana to continue to provide 1915(c) HCBS bridge-waiver services after the termination date to youth already enrolled in the waiver. The last enrolled youth discharged on December 2, 2015, and the program terminated.

Fiscal Impact

The proposed amendments to rates for services provided through the Children's Mental Health Bureau will increase SFY 2017 provider rates for Medicaid services by \$2,013,476; Comprehensive School and Community Treatment \$576,151; and non-Medicaid Respite \$5,800. These are total fund amounts. This funding will impact over 16,000 youth served by the children's mental health Medicaid program.

5. The department intends to adopt these rule amendments effective July 1, 2016.

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., May 20, 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 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/ GERALYN DRISCOLL
Geraldyn Driscoll, Attorney
Rule Reviewer

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

Certified to the Secretary of State April 11, 2016.