



# MONTANA HEALTHCARE PROGRAMS NOTICE

March 21, 2023

## All Providers

**Effective May 12, 2023**

**End of Public Health Emergency (PHE)**

### **Non-Covered Services Agreement Policy Return to Requirements**

On February 9, 2023, the State of Montana received notice from the Secretary of the U.S. Department of Health and Human Services (HHS) that the COVID-19 Public Health Emergency (PHE) would be extended for 90 days. Additionally, the Secretary noted that based on current trends regarding COVID-19, HHS is planning for this to be the final renewal and that the PHE will end on May 11, 2023.

The Custom Agreement for Non-Covered Services, also known as a waiver of liability or Advance Beneficiary Notice (ABN), is a notice a provider gives to a member **before** they receive a service if, based on Montana Healthcare Programs coverage rules, the provider has reason to believe Montana Healthcare Programs will not pay for the service and the provider wishes to bill the member. The agreement allows the member to decide whether to get the care in question and to accept financial responsibility for the service by paying for the service out-of-pocket.

**A generic agreement stating a member is liable for payment if Montana Healthcare Programs does not cover the service is not permissible.**

The ABN documents that the member has accepted the financial responsibility for the service and must be signed by both the member and provider **before** services are rendered. The ABN must be maintained as part of the member's records.

For an ABN to be considered valid, it must include at a minimum:

- Member name
- Member Medicaid ID number
- Services to be rendered
- Date(s) the service(s) will be rendered
- Member's financial liability of the service(s)
- Member's signature and date signed
- Provider's name
- Provider's address
- Provider's telephone number
- Provider's signature and date signed

[The Custom Agreement for Non-Covered Services form posted on the Forms page of the Provider Information website \(Forms A – C\) can be used as an ABN.](#)

In accordance with [ARM 37.85.406\(11\)\(b\)\(i\)](#) and [ARM 37.85.204](#), if a member signs the Custom Agreement for Non-Covered Services, before receiving services, providers may bill a member for non-covered services.

While all enrolled providers must accept Montana Healthcare Programs payment as payment in full for any covered service, there are instances when a member may be responsible for the cost of services rendered. These situations are outlined below.

- The service is a non-covered service.
  - For example, adult dental treatment services beyond the \$1,125 cap are considered non-covered services.
- The service is not medically necessary under Montana Healthcare Programs criteria.
  - In this instance, the ABN must be based upon definite and specific information given by the provider to the member indicating that the service will not be paid by Montana Healthcare Programs .
  - The provider may not bill the member under this exception when the provider has informed the member only that Montana Healthcare Programs may not pay or where the agreement is contained in a form that the provider routinely requires members to sign.

In each of the above situations a member must sign an ABN.

## **Contact and Website Information**

If you have questions, please contact:

- Behavioral Health and Developmental Disabilities Division at (406) 444-3964
- Children's Mental Health Bureau at (406) 444-4545
- Health Resources Division at (406) 444-4455
- Senior and Long-Term Care at (406) 444-4077

For claims questions or additional information, contact Montana Provider Relations at (800) 624-3958 or (406) 442-1837 or email [Montana Provider Relations Helpdesk](#).

Visit the [Montana Healthcare Programs Provider Information website](#) to access your provider type page. Choose Resources by Provider Type in the left-hand menu.