RESERVE

MONTANA ADMINISTRATIVE REGISTER

1981 ISSUE NO. 8
PAGES 376-429

NOTICE OF FUNCTIONS OF ADMINISTRATIVE CODE COMMITTEE

The Administrative Code Committee reviews all proposals for adoption of new rules or amendment or repeal of existing rules filed with the Secretary of State. Proposals of the Department of Revenue are reviewed only in regard to the procedural requirements of the Montana Administrative Procedure Act. The Committee has the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. In addition, the Committee may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a Joint Resolution directing an agency to adopt, amend or repeal a rule.

The Committee welcomes comments from the public and invites members of the public to appear before it or to send it written statements in order to bring to the Committee's attention any difficulties with existing or proposed rules. The address is Room 138, State Capitol, Helena, Montana, 59620.

HOW TO USE THE ADMINISTRATIVE RULES OF MONTANA AND THE MONTANA ADMINISTRATIVE REGISTER

Definitions: Administrative Rules of Montana (ARM) is a loose-leaf compilation by department of all rules of state departments and attached boards presently in effect, except rules adopted up to three months previously.

Montana Administrative Register (MAR) is a soft back, bound publication, issued twice-monthly, containing notices of rules proposed by agencies, notices of rules adopted by agencies, and interpretations of statute and rules by the attorney general (Attorney General's Opinions) and agencies (Declaratory Rulings) issued since publication of the preceding register.

Use of the Administrative Rules of Montana (ARM):

Known Subject Matter	1. Consult General Index, Montana Code Annotated to determine department or board associated with subject matter or statute number.
Department	2. Refer to Chapter Table of Contents, Title 1 through 46, page i, Volume i, ARM, to determine title number of department's or board's rules.
	3. Locate volume and title.
Subject Matter and Title	4. Refer to topical index, end of title, to locate rule number and catchphrase.
Title Number and Department	5. Refer to table of contents, page 1 of title. Locate page number of chapter.
Title Number and Chapter	6. Go to table of contents of chapter, locate rule number by reading catchphrase (short phrase describing rule.)
Statute Number and Department	7. Go to cross reference table at end of each title which lists each MCA section number and corresponding rules.
Rule in ARM	8. Go to rule. Update by checking registers for past 3-4 months for notice of proposed or adopted amendments of rules listed in table of contents of MAR.

ACCUMULATIVE TABLE

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies which have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. The ARM is updated through March 31, 1981. With the exception of this issue of the Montana Administrative Register (MAR), this accumulative table includes all rulemaking action published in each register since March 31, 1981.

To be current on rulemaking, it is necessary to check the ARM updated through March 31, 1981, this table and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule number in ascending order, catchphrase or the subject matter of the rule and the page number at which the action is published.

ACCUMULATIVE TABLE

Social and Rehabilitation Services, Department of, Title 46

46.12.303 Billing, Reimbursement, Claims, Processing and Payment, p. 355

46.12.1202; 46.12.1204; 16.12.1205; 46.12.1206 Relating to Reimbursement for Skilled Nursing and Intermediate Care Services, p.351

MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 8

TABLE OF CONTENTS

NOTICE: Beginning with this issue, an accumulative table will be published in each Montana Administrative Register. This table, inserted toward the front of each register, lists rulemaking action published in the register since the last updating of the Administrative Rules of Montana.

NOTICE SECTION

The July 1977 through June 1980 Montana Administrative Registers have been placed on microfiche. For information, please contact Jim Waltermire, Secretary of State, Room 202, Capitol Building, Helena, Montana 59620.

BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION
OF THE STATE OF MONTANA

In the matter of the amendment of Sub-Chapter 1 of Chapter 44 concerning secondary vocational education forms and fund allocation procedures.	NOTICE OF PROPOSED AMENDMENT CONCERNING SECONDARY VOCATIONAL EDUCATION FORMS AND FUND ALLOCATION PROCEDURES NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On June 1, 1981, the Superintendent of Public Instruction proposes to amend rules 10.44.101, 10.44.102, 10.44.103, 10.44.104, 10.44.105, 10.44.106 and 10.44.107 in sub-chapter 1 of chapter 44 for specifying forms and procedures to be used by eligible secondary school districts in applying for and expending funds made available to them by legislative appropriation.

2. The rule as proposed to be amended provides as follows:

10.44.101 POLICY STATEMENT. ~~The purpose of these rules is to implement HB 537, Forty-Sixth Montana Legislature. In order to fulfill the intent of that act, the superintendent of public instruction and eligible school districts shall conform to the following rules for allocating, expending and accounting for the monies provided. It is noted that each recipient school district shall certify that district expenditures for secondary vocational education programs in the district have increased by the amount granted from the appropriation.~~ The purpose of these rules is to implement HB 618, Forty-Seventh Montana Legislature. In order to fulfill the intent of that act, the superintendent of public instruction and eligible high school districts shall conform to the following rules for allocating, expending and accounting for monies provided by the legislative appropriation. History: Sec. 20-7-301(") MCA; IMP, Sec. 20-7-303 MCA; NEW, 1979 MAR pp. 1130-1143, Eff. 9/28/79, AMD, 1980 MAR p. 134, Eff. 1/18/80.)

10.44.102 DEFINITION OF TERMS. ~~(1) "Additional cost items" are as follows:~~

~~(a) instructional supplies used in an approved program;~~

~~(b) instructional equipment used in an approved program;~~

~~(c) instructor related travel expense for an approved program;~~

~~(d) repair and maintenance of instructional equipment for an approved program;~~

~~(e) teacher salaries for extended term contracts which provide for supervision of students in vocational related activities such as cooperative work experience and programs that extend beyond the school year;~~

~~(f) stipends for supervision of vocational youth groups including;~~

~~(i)--"Non-allowable-cost-items"-are-as-follows:~~

~~(A)--salaries-for-administration-or-instruction-other-than those-defined-as-an-additional-cost-items;~~

~~(B)--rental-or-purchase-of-classroom-facilities;~~

~~(C)--classroom-furniture,--supplies-and-equipment-other---than-that-defined-as-an-additional-cost-item.~~

~~--(ii)------"Approved-secondary-vocational-programs":--Voca---tional-education-for-persons-in-high-schools-which-have-been designated-as-approved-programs-by-the-superintendent.~~

~~(iii)--"Secondary-vocational-education":--High-school-pro--grams-which-are-directly-related-to-the-preparation-of-individuals-for-paid-or-unpaid-employment,-or-for-additional-preparation-for-a-career-requiring-other-than-a-baccalaureate-or------advanced-degree.~~

~~(iv)---"School-district":--The-territory,-regardless-of-------county-boundaries,-organized-under-the-provisions-of-Montana Code-Annotated-20-6-101,-to-provide-public-educational-services under-the-jurisdiction-of-the-trustees-as-prescribed-by-Montana law.~~

~~-(v)---"Superintendent-of-public-instruction"-includes-the ----superintendent,-the-administrator-of-the-department-of-voca--tional-education-and-the-department-of-vocational-and-occupational-education.~~

~~--(vi)------"Secondary-vocational-program":--Vocational-educa--tion-for-persons-in-high-school-(span-of-grades-usually-beginning-with-grade-9-and-ending-with-grade-12).~~

~~---(vii)--"Industrial-arts-program":--Those-education-programs:~~

~~(A)--which-pertain-to-the-body-of-related-subject-matter, or-related-courses,-organized-for-the-development-of-understan-----ding-about-aspects-of-industry-and-technology,-as-experimen-----ting,-designing,-constructing,-evaluating-and-using-tools, machines,-materials-and-processes;-and-~~

~~(B)--which-assist-individuals-in-making-informed-and-mean-----ingful-occupational-choices-or-which-prepare-them-for-entry into-advanced-trade-and-industrial-or-technical-education programs.~~

~~---(viii)--"Cooperative-vocational-education-programs":--A--program-of-vocational-education-for-persons-who,-through-writ--ten-cooperative-arrangements-between-the-school-and-employers, --receive-instruction,-including-required-academic-courses-and --related-vocational-instruction-by-alternation-of-study,-in --school-with-a-job-in-any-occupational-field,-but-these-two-ex--periences-must-be-planned-and-supervised-by-the-school-and-employers-so-that-each-contributes-to-the-student's-education-and~~

~~to his or her employability. Work period and school attendance may be on alternate half days, full days, weeks or other periods of time in fulfilling the cooperative program.~~

(1) "Additional or excess cost items" are as follows:

(a) vocational teacher salaries for extended term contracts in vocational-related activities such as supervision of students in vocational-related activities, cooperative work experience, curriculum or program development and programs that extend beyond the school year

(b) stipends to vocational teachers for supervision of vocational student groups (DECA, FHA/HERO, FFA, OEA and VICA)

(c) instructional supplies used in an approved program

(d) instructional equipment used in an approved program

(e) instructional-related travel expense for an approved program

(f) repair, maintenance and leasing of instructional equipment for an approved program.

(2) "Approved secondary vocational programs": vocational education for persons in high schools which have been designated as meeting standards and are programs approved by the superintendent.

(3) "Secondary vocational education": high school programs which are directly related to the preparation of individuals for paid or unpaid employment.

(4) "School district": a district organized for the purpose of providing educational services for grades nine through 12, as defined in 20-6-101, MCA; the term does not include post-secondary vocational education centers.

(5) "Superintendent of public instruction": this term includes both the superintendent of public instruction and the administrator of the department of vocational and occupational services in the office of public instruction.

(6) "Secondary vocational program": vocational education for persons in high school (span of grades usually beginning with grade nine and ending with grade 12).

(7) "Industrial arts program": those education programs:

(a) which pertain to the body of related subject matter, or related courses, organized for the development of understanding about all aspects of industry and technology, such as experimenting, designing, constructing, evaluating and using tools, machines, materials and processes; and

(b) which assist individuals in making informed and meaningful occupational choices or which prepare them for entry into advanced trade and industrial or technical education programs.

(8) "Cooperative vocational education programs": a program of vocational education for persons who, through written cooperative arrangements between the school and employers, receive instruction, including required academic courses and related vocational instruction by alternation of study in school with a job in any occupational field. These two experiences must be planned and supervised by the school and employers so that each contributes to the student's education and to his or her employability. Work periods and school attendance may be on alternate half days, full days, weeks, or other periods of

time in fulfilling the cooperative program. (History: Sec. 20-7-301(7) MCA; IMP, Sec. 20-7-303 MCA; NEW, 1979 MAR pp. 1130-1143, Eff. 9/28/79, AMD, 1980 MAR p. 134, Eff. 1/18/80.)

10.44.103 ELIGIBILITY REQUIREMENTS . ~~A school district must have operated a secondary vocational education or industrial arts program for a year to be eligible. Funds will be allocated to the appropriated amount in accordance with the following priorities:~~

~~(1) schools which have operated approved secondary vocational education programs in school years 1976, 1977-78, or 1978-79;~~

~~(2) schools which operated secondary vocational programs which were not approved during the 1978-79 school year and which can provide required information on program costs;~~

~~(3) schools which intend to institute a vocational program for the first time in the 1979-80 school year.~~

A school district must have operated a secondary vocational education or industrial arts program on an approved basis for one year to be eligible. Each approved program must meet the standards for an approved secondary vocational and industrial arts program. (History: Sec. 20-7-301(7) MCA; IMP, Sec. 20-7-303 MCA; NEW, 1979, MAR pp. 1130-1143, Eff. 9/28/79 AMD, 1980 MAR p. 134, Eff. 1/18/80.)

10.44.104 PROCEDURES FOR APPLYING. To apply, school districts must submit to the superintendent of public instruction:

(1) A Local Plan for Vocational Education (Form VZ 0379). This ~~plan~~ is a summary of all vocational programs ~~planned~~ for five fiscal years. ~~(~~School districts which have ~~submit~~ submitted a five-year plans in ~~FY-1978 or FY-1979~~ need not resubmit.~~)~~

(2) A Proposal for a New Vocational Education Programs (Form VZ 0279). For each vocational program categorized by a six-digit office of education code (O.E. Code) ~~occupational program~~ for which the school district is requesting a funding, a separate proposal must be submitted.

(3) A Proposal for Renewal of a Secondary Vocational Program (Form VZ 1080). For each vocational program categorized by a six-digit office of education code (O.E. Code) that is ongoing (previously approved), this application form must be used.

~~(3)~~ (4) An Addendum for Each Cooperative Vocational Education Program (Form F ~~1707~~ VZ 1280). For each program utilizing the cooperative method of instruction, a separate addendum must be attached to the Proposal for Vocational Education Program (Form VZ 0279 or VZ 1080).

~~(4)~~ (5) A Certified Expenditure Report (Form VZ 0579). All school districts ~~applying~~ receiving funds for secondary vocational and industrial arts programs must certify ~~that~~ the expenditures made by the district ~~to support additional cost items in vocational programs will be maintained at the previous year's level and that supplemental funds provided by this grant will actually increase expenditures by the amount of this grant. A Certified Expenditure Report (Form VZ 0579) must be submitted to the superintendent of public instruction by July 15th~~ for each secondary vocational and industrial arts program. (History: Sec. 20-7-301(7) MCA; IMP, Sec. 20-7-303 MCA; NEW, 1979, MAR pp. 1130-1143, Eff. 9/28/79, AMD, 1980 MAR p. 134, Eff. 1/18/80.)

10.44.105 FUNDING FORMULA. The following procedure shall govern the allocation and distribution of vocational education funds:

(1) Only programs meeting the eligibility requirements of rule 10.44.103 above and approved by the superintendent of public instruction shall receive a supplemental vocational education allocation.

(2) All approved programs shall be placed into one of five categories according to the cost of the program. The assignment of programs to categories is subject to annual review and adjustment. A list of programs and the assigned categories will be distributed annually to school districts along with program applications (Form VZ 0279). Each category must carry the following weight factor:

Category	Weight
I	.25
II	.20
III	.15
IV	.10
V	.05

(3) Industrial Arts programs shall be funded at 50 percent of the assigned category.

~~(3)~~ (4) ~~The additional average number belonging may be used for budgeting purposes for the ensuing year. The following formula shall be used for this computation.~~ Funding shall be based upon the average number belonging (ANB) to secondary vocational and industrial arts programs in the year immediately preceding the year for which funding is requested. The ANB shall be computed for each separate secondary vocational and industrial arts program. The following formula shall be used to compute the funding for each program:

Aggregate Days Belonging of those students attending the vocational program	X	No. Vo-Ed. Periods	X Vo-Ed Weight	X Local	ANB=State
180 days		No. Periods in School Day	Factor	Value	Vo-Ed Funds

The figures derived from this formula will be adjusted to reflect the legislative appropriation.

(5) An Annual Vocational Education Pupil Data and School Term Report (Form VZ 0779). This form shall be submitted for each approved program to be used in the above formula.
(History: Sec. 20-7-301(7) MCA; IMP, Sec. 20-7-303 MCA; NEW, 1979, MAR pp. 1130-1143, Eff. 9/28/79, AMD, 1980 MAR p. 134, Eff. 1/18/80.)

10.44.106 ACCOUNTING. A school district receiving funds from ~~this~~ the appropriation shall account for such funds in a sub-

fund of the ~~general fund~~ miscellaneous program fund established by 20-9-507, MCA. These funds shall be expended within the biennium. Funds received for a program must be expended in that program. (History: Sec. 20-7-301(7) MCA; IMP, Sec. 20-7-303 MCA; NEW, 1979 MAR pp. 1130-1143, Eff. 9/28/79, AMD, 1980 MAR p. 134, Eff. 1/18/80.)

10.44.107. REPORTING. School districts participating in this program shall annually report expenditures for each approved and funded program in the format and time specified by the superintendent of public instruction. Funds must be expended only in the "additional or excess cost items" that are identified in 10.44.102. (History: 20-7-301(7) MCA; IMP, 20-7-303 MCA; NEW, 1979 MAR pp. 1130-1143, Eff. 9/28/79, AMD, 1980 MAR p. 134, Eff. 1/18/80).

3. The rules are proposed to implement the provisions of H.B. 618, Forty-Seventh Montana Legislature.

4. Any person may submit data, views or arguments concerning the proposed rules in writing to Betty Lou Hoffman, Director, Secondary Vocational Education, Office of Public Instruction, State Capitol, Helena, Montana 59620, no later than May 28, 1981.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Betty Lou Hoffman, Director, Secondary Vocational Education, Office of Public Instruction, State Capitol, Helena, Montana 59620, no later than May 28, 1981.

6. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 17 persons based on 169 public secondary schools in Montana.

7. The authority of the superintendent to make the proposed amendments is based on House Bill 618 and 20-3-106 (36) MCA, and the rule implements 20-7-303, MCA.

Ed Argenbright
Superintendent of Public Instruction

Certified to the Secretary of State April 20, 1981.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 10.62.101 concerning certification of fire department instructor	NOTICE OF PROPOSED AMENDMENT OF ARM 10.62.101 FIRE DEPARTMENT INSTRUCTOR CERTIFICATION

NO HEARING ANTICIPATED

TO: All Interested Persons.

1. On June 8, 1981 the Board of Public Education proposes to amend rule 10.62.101, Fire Department Instructor Certification.

2. The rule proposed to be amended provides:

10.62.101 FIRE DEPARTMENT INSTRUCTOR CERTIFICATION

(1) Fire department instructors, prior to certification by the state, must meet the following minimum requirements established by the Montana fire services training school:

(a) new volunteer fire department instructors will be required

(i) to have completed the IFSTA basic ten abridged units, or ten unabridged units, or NFPA 1001--certified firefighter III; and

(ii) to have successfully completed advanced course (fire officer V--methods and techniques of instruction).

(b) Currently qualified volunteer fire department instructors will continue to instruct, but each instructor is urged to accomplish items (a) (i) and (ii) above.

(c) Current paid fire department instructors will be required to meet items (a) (i) and (ii) above by July 1, 1981 to continue to receive certification from this office.

(d) Advanced instructor certification will require the following:

(i) successfully complete the advance class subject area;

(ii) currently be a prior instructor who has been certified in the IFSTA basic ten units (abridged or unabridged version); and

(iii) receive additional instruction for the advanced subject and utilize the approved outlines, tests, and tests provided by the Montana fire services training school.

(iv) advanced instructor certification is subject to be declined if sufficient qualifications are not evident or

provided to the Montana fire services training school.

3. This rule is proposed to be amended due to verbage being inadvertantly omitted.

4. Interested parties may submit their data, views or arguments concerning the proposed amendment in writing to Chairman Marjorie W. King, Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59601, at any time prior to May 28, 1981.

5. If a person who is directly affected by the proposed amendment wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Chairman Marjorie W. King, Board of Public Education, 33 South Last Chance Gulch, Helena, Montana 59601, no later than May 28, 1981.

6. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 435, whichever is less, of the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 435 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be one person based on approximately four hundred twenty-five (425) non-citizens presently holding fire department instructor certificates.

7. The authority of the agency to make the proposed amendment is based on Section 20-2-114, 20-31-102 MCA; IMP Section 20-31-103 MCA; NEW, 1980 MAR p. 1116, Eff. 3/28/80.

Marjorie W. King

MARJORIE W. KING, CHAIRMAN
BOARD OF PUBLIC EDUCATION

BY: Rick Reese
Assistant to the Board

Certified to the Secretary of State April 20, 1981.

BEFORE THE DEPARTMENT
OF PUBLIC SERVICE REGULATION
OF THE STATE OF MONTANA

IN THE MATTER of Proposed Amendment of rules governing Interim Utility Rate Increases.	)	NOTICE OF PROPOSED AMENDMENT OF RULES 38.5.503 AND 38.5.505
	)	NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons

1. On June 1, 1981, the Department of Public Service Regulation proposed to amend rules 38.5.503 and 38.5.505 regarding notice and supporting material for interim utility rate increases.

2. The proposed rules provide as follows:

38.5.503 NOTICE (1) The ~~Commission~~ utility will issue notice of all applications it makes for interim rate increases. The notice will be transmitted to the Montana Consumer Counsel, and all parties to the permanent rate case of which the request for temporary relief is a part, to media of general dissemination in the area affected by the increase in rates, and to interested parties that participated in the most recent general rate increase application of the particular utility. The notice shall emphasize that any response should be made speedily.

38.5.505 SUPPORTING MATERIAL (1) Any application for interim authority to increase utility rates sought as part of a general (other-than-tracking) rate increase shall only be deemed filed when all prefiled direct testimony and exhibits supporting the general rate increase request have been submitted.

(2) For every interim rate increase request, the applicant shall file the original and eight copies of the letter of transmittal, application~~,~~ and exhibits, certificate of service for notice of the interim application and proposed order, with the Commission; two copies of the letter of transmittal, the application and any exhibits shall be simultaneously filed with the Montana Consumer Counsel; copies of the letter of transmittal, application, and any exhibits shall also be filed with all parties to any coincident permanent rate case.

(3) Any applications for interim authority to increase utility rates to meet increased costs of a single, clearly measurable expense item (tracking cases) shall be supported by the following:

(a) Letter of transmittal
(b) Application
(c) Rate schedules - current and proposed
(d) Detail of increased expense item
(e) Summary of base cost of expense item and proposed adjustment
(f) Statements showing effects of proposed adjustment, including operating income, rate of return, and return on

average equity.

(g) Most recent 12 month balance sheet and income statement.

(4) Filings made under this rule and those contemplated by ARM 38.5.507 are not subject to the standards set forth in the Commission's Minimum Rate Case Filing Standards ARM 38.5.101 through 38.5.184.

3. The Commission is proposing these amendments in order to reduce the administrative costs and workloads of the Commission and to reduce regulatory lag. Because the rules presently require utilities to file extensive materials with parties in the last rate case, their cost to send notice of interim rate application will be substantially less than it is for the Commission. The Commission believes that the requirement for proposed orders will assist it in reducing regulatory lag when the Commission decides that an interim increase is warranted.

4. Interested persons may submit their data, views or arguments concerning the appropriateness of these proposed rules at the hearing above noticed or in writing to Eileen E. Shore, 1227 11th Avenue, Helena, Montana 59620, no later than May 28, 1981.

5. If a person who is directly affected by the proposed adoption wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Eileen E. Shore, 1227 11th Avenue, Helena, Montana 59620, no later than May 28, 1981.

6. The Montana Consumer Counsel, 34 West 6th Avenue, Helena, Montana 59620 (telephone 449-2771), is available and may be contacted to represent consumer interests in this matter.

7. If the agency receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of the persons directly affected; from the Administrative Code Committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 25 persons based on approximately 250 regulated utilities that are subject to the requirements of the rule.

8. Authority for the Department to make and adopt the proposed rules is based on 69-3-103, MCA, IMP, 69-3-304, MCA.

GORDON E. BOLLINGER, Chairman

CERTIFIED TO THE SECRETARY OF STATE April 20, 1981.

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of Rules 46.5.903, 46.5.904, and 46.5.905 pertaining to Day Care home centers and facilities.	) NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT OF RULES 46.5.903, 46.5.904 AND 46.5.905 PERTAINING TO DAY CARE HOME CENTERS AND FACILITIES.

TO: All Interested Persons

1. On May 20, 1981, at 9:00 a.m., a public hearing will be held in the auditorium of the Social and Rehabilitation Services Building, 111 Sanders, Helena, Montana to consider the amendment of Rules 46.5.903, 46.5.904, and 46.5.905 pertaining to day care home centers and facilities, expanded day care assistance (requirements), Title XX related day care, special needs Title IV-A day care, and day care rates.

2. The rules as proposed to be amended provide as follows:

46.5.903 REQUIREMENTS (1) General Requirements:
(a) The child must be between 0 and 14 years of age except in those special situations discussed in this section.
(b) The day care facility must be licensed prior to day care placement.
(c) The care being paid for may not be more than 60 days in arrears from the last day of care provided for the period covered or being billed for.
(d) The placement of the child(ren) may not violate the current licensed capacity of the day care facility.
(e) Necessary copies of a child day care plan certification must be properly completed and approved by the department.
(f) The parent and the day care operator shall receive written confirmation from the social service worker of the approval of day care, for the opening of day care, for the termination of day care (10 days prior to date closure is effective), and the approval of special rates, etc.
(g) Day care services (appropriateness of plan/arrangement and the financial eligibility for day care services) shall be redetermined every 6 months or sooner whenever information indicates eligibility may have changed or the adequacy of the day care plan needs to be reevaluated.
(h) Quality day care dictates as part of its eligibility that a preplacement visit of the child and parent(s) to the day care facility prior to placement for day care is essential. It is the responsibility of the service worker to ensure this pre-placement visit occurs.
(2) Specific requirements:

~~(a) Title XX of the U.S. Social Security Act related day care requires:~~

~~(i) The single parent or parents must be working or employed on a full- or part-time- basis (outside the home) and are financially eligible to receive Title XX day care (AFDC, 150% welfare).~~

~~(ii) Title XX related day care applies to families when it is an ADC step-parent grant situation and the natural and/or legal parent is working (both adults are working) and the child qualifies as financially eligible for day care.~~

~~(b)~~ (a) Protective day care requires:

~~(i) The family is not able to qualify for Title XX of the U.S. Social Security Act related day care.~~

~~(ii)~~ (i) The family can be a two-parent family.

~~(iii)~~ (ii) The family is not able to pay for day care, which situation is documented in the case record.

~~(iv)~~ (iii) That the child is in need of day care because of danger of neglect or abuse.

~~(v)~~ (iv) Foster children in exceptional and documented situations, and after all other requirements for protective day care that are appropriate have been met, and upon written approval of the SWS III.

~~(c)~~ (b) WIN related day care requires:

(i) The family is registered for WIN.

(ii) If the certified registrant is placed in employment, but is no longer receiving an ADC subsistence grant and meets the other day care eligibility requirements stated in this section, day care services will continue for 30 days from the date of entry into employment.

~~(d)~~ (c) Special need related or extra meal day care requires:

(i) That the extra meal is not and should not be part of the full day care or full night care services.

(ii) That the parents' situation is such as to require the provision of the extra meal (i.e., parent is employed from 7:00 a.m. to 5:30 p.m., thus requires provision of the breakfast meal in addition to lunch; or the provision of lunch only during the school lunch break). This must be documented in the case record.

(iii) That the day care facility is in agreement to provide this extra service.

(iv) That the child's needs and best interest are being met through the service provided.

(v) That this rate has been approved in writing by the district office social worker supervisor III upon receiving a written evaluation for the need from the social service worker.

~~(e)~~ (d) Special child or exceptional child day care requires:

(i) That the case record contain written verification of the physical handicaps or retardation from the appropriate

authority and between the ages of 0 through 17 years of age, but not 18 years of age.

(ii) That a written evaluation on the appropriateness of the day care being given the child in the facility has been submitted to and approved by the district office social worker supervisor III, which evaluation shall include:

(A) the long range goal for the family, particularly the child, and how day care is incorporated into this plan;

(B) the positives as well as the negatives of this placement;

(C) the steps that would be taken to ensure appropriate adjustments of the parent and child to the placement; and

(D) the plan for follow-up evaluations of the placement.

~~(f) Expanded day care assistance requires a determination by the local affiliate of social services bureau which is the county welfare department that:~~

~~(i) the family includes a dependent child or children deprived of the support of a parent according to ARM 46.10.303 and the other parent is working or employed outside the home on a full- or part-time basis; or~~

~~(ii) the parents are working or employed outside the home on a full- or part-time basis; and~~

~~(iii) the family is not eligible for Title XX of the U.S. Social Security Act related day care, child welfare service related day care, work incentive program related day care or aid to families with dependent children;~~

~~(iv) the family is qualified on the basis of property ownership as defined in ARM 46.10.410; and~~

~~(v) the family income must be less than 75% of the state's median income for families of like size as published each year in the federal register.~~

~~(g) The expanded day care assistance will provide for the gradual assumption of the total costs of day care by parents of eligible children based upon a 12-step progressive scale establishing income brackets between 150% of the AFDC level and 75% of the state's median income, and establishing support levels between 100% and 0% of day care costs. Tables illustrating income and support levels are as follows: (See sliding scale day care table on next page.)~~ THE FOLLOWING SLIDING SCALE DAY CARE TABLE IS DELETED. FOR THE PURPOSE OF EASIER READING, IT HAS NOT BEEN INTERLINED.

SLIDING SCALE DAY CARE

MONTHLY INCOME LEVELS

Household Size	150% AFDC Level $$$$$	STEPS 1	2	3	4	5	6	7	8	9	10	11	12	75% Median Income $$$$
1	231	232 260	261 289	290 318	319 348	349 377	378 406	407 435	436 464	465 493	494 522	523 551	552 580	581
2	289	290 328	329 367	368 407	408 446	447 485	486 524	525 564	565 603	604 642	643 681	682 720	721 759	760
3	388	389 434	435 480	481 526	527 572	573 618	619 663	664 709	710 755	756 801	802 847	848 893	894 938	939
4	496	497 547	548 598	599 650	651 702	703 754	755 805	806 857	858 909	910 961	962 1012	1013 1064	1065 1116	1117
5	571	572 631	632 691	692 751	752 812	813 872	873 932	933 993	994 1053	1054 1114	1115 1174	1175 1235	1236 1295	1296
6	649	650 717	718 786	787 854	855 923	924 992	993 1061	1062 1130	1131 1199	1200 1267	1268 1336	1337 1405	1406 1474	1475
7	711	712 777	778 843	844 909	910 976	977 1042	1043 1108	1109 1175	1176 1241	1242 1308	1309 1374	1375 1441	1442 1507	1508
8	805	806 866	867 927	928 988	989 1050	1051 1111	1112 1172	1173 1234	1235 1295	1296 1357	1358 1418	1419 1480	1481 1541	1542

SUPPORT LEVELS

Percent SRS Pays	100% (XX)	92.3%	84.6%	76.9%	69.2%	61.5%	53.8%	46.2%	38.5%	30.8%	23.1%	15.4%	7.7%	0%

46.5.904 SPECIAL NEEDS, TITLE IV-A DAY CARE FOR RECIPIENTS IN TRAINING OR WORKING In addition to the basic AFDC grant, day care payment will be included for children of recipients who are working or attending employment related training unless otherwise provided. AFDC recipients who attend WIN training shall be referred for WIN related day care. ~~AFDC recipients who are employed shall be referred to Title XX for payment of day care services. 45 CFR 233.20(a)(2)(v).~~

(1) Limitations of special needs day care:

(a) Title IV-A day care is payments for children of parents who are AFDC recipients working or in training on a full- or part-time basis. Training is, but is not limited to: vocational-technical schools, business colleges, junior colleges, university students, or special classes which may be classified as "employment related training." Students who are working to support their education are included under this rule.

(b) Day care needs will be taken into consideration for eligibility determination of an applicant. If an applicant requires special needs day care, this need will be considered in addition to the AFDC grant amount to determine eligibility.

(c) Day care payment shall be added to the AFDC grant amount. ~~and in no cases will Title IV-A day care be paid in the form of vendor payment.~~ Payment may be made through vendor or two party payments.

(d) Day care payment will be paid upon evidence of need. ~~(~~Evidence of need includes ~~receipts~~ verification from the provider of day care services.~~)~~ Evidence of need shall include the signature of the individual provider or his/her designee, the month of services, ~~and the day and year completed~~, and the names of the children served.

(e) Day care payment shall not exceed ~~$143~~ $154 per month, per child for children in licensed day care centers, ~~meeting federal guidelines,~~ ~~$121~~ $143 per month per child for children in ~~licensed~~ registered group day care ~~centers~~, homes, and ~~$121~~ $132 per month per child for children in registered day care homes. ~~meeting federal guidelines and $99 per month per child for in-home day care or in day care homes.~~ The recipient shall choose his/her day care provider.

46.5.905 DAY CARE RATES (1) General:

(a) Day care rates in ~~centers~~ facilities must be at least equal for state-paid day care recipients and public day care consumers. ~~of the day care center~~. This does not preclude ~~centers~~ facilities from charging higher rates to public day care consumers (those persons who are not receiving payment of their child care from the department). ~~This does not preclude centers from charging lower rates to public consumers and subsidizing the difference from other center funds such as United Way moneys.~~

(2) Specific:

(a) Full day care services are paid at a rate of ~~$5.00~~ $6.00 per day per child in care in day care homes. The maximum rate for group day care homes is $6.50 per child per day of care. The maximum rate for centers is ~~$6.00~~ $7.00 per child per day of care. These rate increases shall be paid retroactively beginning July 1, ~~1980~~ 1981.

(b) Part-time care is paid at a rate of ~~50¢~~ 60¢ per hour per child in day care homes, 65¢ per hour per child in group day care homes, and ~~60¢~~ 70¢ per hour per child in all centers up to a maximum of a full day or night care rate.

(c) Extra meals are paid at a rate of 60¢ per child per meal. ~~The hourly rate for care is 50¢ per hour per child in day care homes and 60¢ per hour per child in centers.~~ This is subject to written approval of the district office social worker supervisor III.

(d) Special child or exceptional child day care is paid at a rate determined by the day care facility, parent of the child, and the social worker up to a maximum of $8 per day or per night care; and upon approval by the district social worker supervisor III. Part-time care may be provided at a rate of up to a maximum of $1 per hour per child, up to a maximum of a full day or night care special rate of $8 and subject to the same requirements as applied to the daily rate.

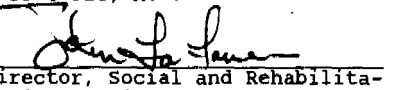
(e) Day care operators will be allowed to claim a day's care only when actually provided to the child, unless the child is enrolled in the center.

3. The rule is proposed to be amended because of the loss of legislative authority to continue the expanded day care assistance program. HB 812 passed by the 47th Legislature and approved by the Governor eliminated the expanded day care program. Title IV-A Day Care eligibility is proposed to be amended to include AFDC recipients who are working. 45 CFR 220.18. The day care rates are proposed to be increased due to an increased appropriation from the 47th Legislature.

4. Interested persons may present their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to the Office of Legal Affairs, Department of Social and Rehabilitation Services, P. O. Box 4210, Helena, Montana, 59604, no later than May 29, 1981.

5. The Office of Legal Affairs, Social and Rehabilitation Services has been designated to preside over and conduct the hearing.

6. The authority of the agency to amend the rules is based on Sections 53-4-111 and 53-4-503, MCA and the rules implement Sections 53-4-508 and 53-4-514, MCA.



Director, Social and Rehabilitation Services

Certified to the Secretary of State April 20, 1981.

BEFORE THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES OF THE
STATE OF MONTANA

In the matter of the amendment of Rule ARM 46.10.404 pertaining to Special Needs, Title IV-A Day Care for Recipients working, in training or in need of protective services	)))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT OF RULE 46.10.404 PERTAINING TO SPECIAL NEEDS, TITLE IV-A DAY CARE.

TO: All Interested Persons

1. On May 20, 1981, at 10:00 a.m., a public hearing will be held in the auditorium of the Social and Rehabilitation Services Building, 111 Sanders, Helena, Montana, to consider the amendment of Rule 46.10.404, pertaining to Special Needs, Title IV-A Day Care for recipients working, in training or in need of protective services.

2. The rule as proposed to be amended provides as follows:

46.10.404 SPECIAL NEEDS, TITLE IV-A DAY CARE FOR RECIPIENTS WORKING, IN TRAINING OR IN NEED OF PROTECTIVE SERVICES. Unless otherwise provided; in addition to the basic AFDC grant, day care payment will be ~~included~~ provided for children of recipients who are working, attending employment-related training or in need of protective services. AFDC recipients who attend WIN training shall be referred for WIN-related day care. AFDC recipients who are employed shall be referred to Title XX for payment of day care services. Special Needs IV-A Day Care is available for AFDC children who require child protective services day care.

(1) Limitations to special needs day care:

(a) Title IV-A day care payments are made for children of parents who are AFDC recipients working or in training on a full- or part-time basis. Training is, but not limited to: vocational-technical schools, business colleges, junior colleges, university students, or special classes which may be classified as "employment-related training." Students who are working to support their education are included under this rule.

(b) Day care needs will be taken into consideration for eligibility determination of an applicant. If an applicant requires special need day care, this need will be considered in addition to the AFDC grant amount to determine eligibility.

(c) Day care payment shall be added to the AFDC grant amount. ~~and in no cases will Title IV-A day care be paid in the form of vendor payment.~~ Payment may be made through a vendor or two-party payment.

(d) Day care payment will be paid upon evidence of need. Evidence of need includes verification from the provider of

day care services. Verification includes the signature of the individual provider or his designee, the month of service, and names of children served.

(e) Day care payments shall not exceed ~~$132~~ $154 per month or ~~$6~~ $7 per day or ~~$3~~ $3.50 per half day per child in licensed day care centers.

(f) Day care payments shall not exceed ~~$132~~ $143 per month or ~~$5~~ $6.50 per day or ~~$2.50~~ $3.25 per half day per child ~~for in-home day care or in~~ in registered group day care homes.

~~(g) These rate increases shall be paid retroactive to August 1, 1980.~~

(g) Day care payments shall not exceed $132 per month, or $6 per day, or $3 per half day per child in registered day care homes.

(h) Special Needs Day Care is available for care provided in licensed or registered day care facilities only.

~~(h)~~ (i) The recipient shall choose his day care provider.

3. The rule is proposed to be amended to include the class of "working" AFDC recipients and those children of AFDC recipients in need of protective services due to loss of legislative authority to continue the expanded day care program. Title IV-A Day Care eligibility is proposed to be amended to include those two groups. 45 CFR 1392.18. The day care rates are proposed to be increased due to an increased appropriation from the 47th legislature.

4. Interested persons may present their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to the Office of Legal Affairs, Department of Social and Rehabilitation Services, P. O. Box 4210, Helena, Montana, 59604, no later than May 29, 1981.

5. The Office of Legal Affairs, Social and Rehabilitation Services has been designated to preside over and conduct the hearing.

6. The authority of the agency to amend the rule is based on Section 53-4-212, MCA, and the rule implements Section 53-4-211, MCA.

Director, Social and Rehabilitation Services

Certified to the Secretary of State April 20, 1980.

MAR Notice No. 46-2-286 8-4/30/81

BEFORE THE DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES
OF THE STATE OF MONTANA

In the matter of the amendments of Rules 46.12.102, 46.12.303, 46.12.522, 46.12.527, 46.12.532, 46.12.537, 46.12.542, 46.12.547, 46.12.557, 46.12.567, 46.12.582, 46.12.605, 46.12.801, 46.12.905, 46.12.915, 46.12.1005, 46.12.1015, 46.12.1025, and 46.12.2003 pertaining to medical services, reimbursement	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS OF RULES 46.12.102, 46.12.303, 46.12.522, 46.12.527 46.12.532, 46.12.537 46.12.542, 46.12.547, 46.12.557, 46.12.567, 46.12.582, 46.12.605, 46.12.801, 46.12.905, 46.12.915, 46.12.1005, 46.12.1015, 46.12.1025, and 46.12.2003 PERTAINING TO MEDICAL SERVICES

To: All Interested Persons

1. On May 21, 1981, at 9:00 a.m., a public hearing will be held in the auditorium of the Social and Rehabilitation Services Building, 111 Sanders, Helena, Montana, to consider the amendments of Rules 46.12.102, 46.12.303, 46.12.522, 46.12.527, 46.12.532, 46.12.537, 46.12.542, 46.12.547, 46.12.557, 46.12.567, 46.12.582, 46.12.605, 46.12.801, 46.12.905, 46.12.915, 46.12.1005, 46.12.1015, 46.12.1025, and 46.12.2003 pertaining to medical services, reimbursement.

2. The rules as proposed to be amended provide as follows:

46.12.102 MEDICAL ASSISTANCE, DEFINITIONS (1) Department means the Montana department of social and rehabilitation services.

(2) Medically necessary service means a service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate, or prevent the worsening of conditions in a patient which:

(a) endanger life, or
(b) cause suffering or pain, or
(c) result in illness or infirmity, or
(d) threaten to cause or aggravate a handicap, or
(e) cause physical deformity or malfunction and, there is no other equally effective, more conservative, or substantially less costly course of treatment more suitable for the recipient requesting the service or, when appropriate, no treatment at all.

(i) Services which are considered by the medical profession as experimental or which are generally regarded by the medical profession as unacceptable treatment will not be considered medically necessary for the purpose of the medical

assistance program.

(3) Montana medicaid program means the Montana medical assistance program authorized by sections 53-6-101 through 53-6-144, 53-6-201 and 53-6-202 et seq. MCA and 42 USC 1396 et seq.

(4) Provider means a natural person, firm, corporation, association or institution which is providing and has been approved to provide medical assistance to a recipient pursuant to the state medical assistance program.

(5) Third party means an individual, institution, corporation, or a public or private agency which may be or is liable to pay all or part of the medical cost of injury, disease, or disability of an applicant for or a recipient of services provided by the Montana medicaid program.

(6) ~~Usual and customary charges which are reasonable means those charges which fall within the 75th percentile of all charges for similar service in the statewide area during the last calendar year elapsing prior to the start of the fiscal year in which the bill is submitted.~~ Upper limits of reimbursement for noninstitutional services are:

(a) the provider's actual charge (the amount submitted on the claim to medicaid);

(b) the medicaid median charge as determined from medicaid claims submitted during all of the calendar year preceding the state fiscal year in which the determination is made; however, if the individual can supply the department with convincing evidence that the department's determination of median charge does not reasonably represent the individual provider's median charge, the department may conduct an analysis that documents a more appropriate figure;

(c) the amount allowable for the same service under medicare and the prevailing charge under part B, medicare;

(d) the 75th percentile of the range of weighted medicaid median charges in the state that are set by the department during the calendar year preceding the state fiscal year in which the determination is made.

(7) Valid and proper claim means a claim which has been signed and submitted on a department approved billing form with all the requested information supplied, and for which no further written information or substantiation is required for payment.

(8) Designated review organization means an organized group or an individual who has contracted with the department or is designated by law to determine whether services are medically necessary.

(9) Affiliates means persons having an overt or covert relationship such that any one of them directly or indirectly controls or has the power to control another.

(10) Provider agreement means an agreement that con-

tinues for a specific period of time not to exceed twelve months and which must be renewed in order for the provider to continue to participate in the medicaid program.

(11) Fiscal agent means an organization which processes and pays provider claims on behalf of the department.

(12) Suspension of payments means the withholding of all payments due a provider pending the resolution of the matter in dispute between the provider and the department.

(13) Suspension of participation means an exclusion from participation in the medicaid program for a specified period of time.

(14) Termination from participation means an exclusion from participation in the medicaid program.

(15) Withholding of payments means a reduction or adjustment of the amounts paid to a provider on pending and subsequently submitted bills for purposes of offsetting overpayments previously made to the provider.

(16) Grounds for sanctions are fraudulent, abusive, or improper activities engaged in by providers of medical assistance services.

(17) Intern means a medical practitioner involved in a period of on-the-job training as part of a larger educational program.

(18) Resident means a medical practitioner involved in a prolonged period of on-the-job training which may either be part of a formal educational program or be undertaken separately after completion of a formal program, sometimes in fulfillment of a requirement for credentialing.

(19) License means permission granted to an individual or organization by competent authority to engage in a practice, occupation or activity which would otherwise be unlawful. It is granted in the state where the practice, occupation or activity is carried out.

(20) Certification means the process by which a governmental or non-governmental agency or association evaluates and recognizes an individual, institution or educational program as meeting predetermined standards.

(21) Outpatient drugs means drugs which are obtained outside of a hospital.

(22) Maximum allowable cost (MAC) is the upper limit the department will pay for drugs in accordance with 42 CFR 447.331 which is a federal regulation dealing with limits of payment. The department hereby adopts and incorporates 42 CFR 447.331 by reference. A copy of the above-cited regulation may be obtained from the department of Social and Rehabilitation Services, Economic Assistance Division, 111 Sanders, Helena, Montana, 59601.

(23) Estimated acquisition cost is the cost for drugs for which no MAC price has been determined. The estimated acquisition cost is established and adjusted monthly by the

department upon notification of drug prices by pharmacies or legitimate pharmacy supplies.

46.12.303 BILLING, REIMBURSEMENT, CLAIMS PROCESSING, AND PAYMENT (1) Providers shall submit claims within 180 days of the date the service was performed, within 180 days after the applicants eligibility is determined, or within 180 days after a written notice from a third party resource, whichever occurs last. For providers of hospital services, the service shall be deemed to have been performed upon the recipient's discharge from one continuous confinement. A written inquiry to the department or to the local county welfare department regarding eligibility within the 180 day limit shall constitute evidence of an effort to bill medicaid for these services.

(a) All claims to the Montana medicaid program are to be submitted on personally signed state approved billing forms, or they shall not be considered valid and proper claims.

(2) The program shall pay 90 percent of all valid and proper claims within 30 days after receipt of said claim. Should the bureau contend that a claim is not valid or proper, the bureau shall inform the provider of the details of the contention within 30 days after receipt of the claim.

(a) The program shall pay 99 percent of all valid and proper claims within 90 days of receipt of the claims.

(b) The program shall make payment on all claims within 180 days of the receipt of the claim unless it determines payment to be improper under this chapter or applicable federal regulations.

(c) The department shall be entitled to promptly (within 60 days) recover all payments erroneously or improperly made to a provider. At the option of the provider, refunds shall be accomplished either by mailing a check made out to "State Department of Social and Rehabilitation Services" directly to that department at Box 4210, Helena, MT 59601, or by notifying the department in writing of the receipt and the amount of payment over and above the amount reimbursable by the Montana medicaid program, which amount shall then be automatically deducted from future payments to the provider. Regardless of the method of repayment chosen, the provider shall identify on the check or notifying document the patient, by name and claim number, who received services for which the over payment was made and specify the dates of services for which over payments were received. If the provider contests the department's decision that the provider has been overpaid, recovery shall depend on the final administrative decision.

~~(3) Unless stated elsewhere, payments made by the Montana medicaid program shall not exceed the lower of the amount payable for like services in the same locality by the medicare program (Title XVIII of the Social Security Act), or~~

~~the provider's usual and customary charges that are reasonable.~~

~~(4)~~ (3) Providers are required to accept, as payment in full, the amount paid by the Montana medicaid program for a service provided to an eligible medicaid recipient in accordance with the rules of the department. Providers shall not seek any payment in addition to or in lieu of the amount paid by the Montana medicaid program from a recipient or his representative.

~~(5)~~ (4) In the event that a provider of services is entitled to a retroactive increase of payment for services rendered, the provider shall submit a claim within 180 days of the written notification of the retroactive increase or the provider forfeits any rights to the retroactive increase.

~~(6)~~ (5) The Montana medicaid program shall make payments directly to the individual provider of service unless the individual provider is required, as a condition of his employment, to turn his fees over to his employer.

(a) Exceptions to the above requirement may, at the discretion of the department, be made for transportation and/or per diem costs incurred to enable a recipient to obtain medically appropriate services.

~~(7)~~ (6) The method of determining payment rates for out-of-state providers will be the same as for in-state providers except as otherwise provided in the rules of the department.

46.12.522 PODIATRY SERVICES, REIMBURSEMENT/GENERAL REQUIREMENTS AND MODIFIERS (1) ~~Payments for podiatry services will be the lesser of usual and customary charges which are reasonable, the amount payable by medicare, or the following fee schedule.~~ The Department will pay the lowest of the following for podiatry services: the provider's actual (submitted) charge for the services; the provider's Medicaid median charge for the service; the amount allowable for the same service under Medicare; and for those services which are not covered by Medicare the provider's 75th percentile of the range of weighted Medicaid median charges; or the podiatry fee schedule in Section (2) and ARM 46.12.523. Services paid by report (BR) will be paid at 70% of all Montana podiatrist's 1980 usual and customary charges for the specified service.

(2) MODIFIERS

Listed services and procedures may be modified under certain circumstances. When applicable, the modifying circumstance should be identified by the addition of the appropriate modifier code, which is a two digit number placed after the usual procedure number from which it is separated by a hyphen. If more than one modifier is used, the "Multiple Modifiers"

code placed first after the procedure code indicates that one or more additional modifier codes will follow. All procedures where a modifier is used may be paid By Report (BR). Modifiers commonly used are as follows:

-22 Unusual Services: When the service(S) provided is greater than that usually required for the listed procedure, it may be identified by adding modifier '-2' to the usual procedure number. A report may also be appropriate. (Pertains to Medicine, Anesthesia, Surgery, Radiology, and Pathology and Laboratory.)

-23 Unusual Anesthesia: Periodically, a procedure, which usually requires either no anesthesia or local anesthesia, because of unusual circumstances must be done under general anesthesia. This circumstance may be reported by adding the modifier '-23' to the procedure code of the basic service. (Pertains to Anesthesia, Surgery.)

-26 Professional Component: Certain procedures (eg, laboratory, radiology, specific diagnostic services) are a combination of a podiatric component and a technical component. When the podiatric component is reported separately, the service may be identified by adding the modifier '-26' to the usual procedure number. (Pertains to Medicine, Surgery, Radiology, and Pathology and Laboratory.)

-30 Anesthesia Service: The anesthesia service may be identified by adding the modifier '-30' to the usual procedural code number of the basic service. (Pertains to Anesthesia.)

46.12.527 OUTPATIENT PHYSICAL THERAPY SERVICES, REIMBURSEMENT ~~Medicaid payment for outpatient physical therapy services will be the lesser of usual and customary charges which are reasonable, the maximum allowed by medicare, or the following physical therapy fee schedule.~~ The department will pay the lowest of the following for outpatient physical therapy services: the provider's actual (submitted) charge for the service; the amount allowable for the same service under medicare, and for those services not covered by medicare, the provider's medicaid median charge or the 75th percentile of the range of weighted medicaid median charges; or the following fee schedule:

A. D. L.	16.50
Consultation	27.50
Electrophysiological evaluation	27.50

Electromyography	55.00
Physical Therapy Evaluation	27.50
Home Instruction	27.50
Muscle Testing	27.50
Hubbard Tub	22.00
Hubbard Tub + 1 modality	22.00
Hubbard Tub + 2 modalities	25.30
Hubbard Tub + 3 modalities	27.50
Isolation Hubbard Tub	22.00
Whirlpool	13.20
Whirlpool + 1 modality	14.30
Whirlpool + 2 modalities	22.00
Whirlpool + 3 modalities	33.00
Gait Training	22.00
Postural Drainage	14.30
Therapeutic Exercise	16.50
One Modality	11.00
Two Modalities	12.10
Three Modalities	16.50
Four Modalities	16.50
Five Modalities	19.80

46.12.532 SPEECH PATHOLOGY SERVICES, REIMBURSEMENT (1) ~~Payment for outpatient speech pathology services shall not exceed the lowest of usual and customary charges which are reasonable, actual charges,~~ The department will pay the lowest of the following for speech pathology services: the provider's actual (submitted) charge for the service; the amount allowable for the same service under medicare, and for those services not covered by medicare, the provider's medicaid median charge or the 75th percentile of the range of weighted medicaid median charges; or $21.50 per hour.

46.12.537 AUDIOLOGY SERVICES, REIMBURSEMENT ~~Payment for audiology services shall not exceed the lowest of usual and customary charges which are reasonable, actual charges, or the rates allowed by the audiology fee schedule.~~ The department will pay the lowest of the following for audiology services: the provider's actual (submitted) charge for the service; the amount allowable for the same service under medicare, and for those services not covered by medicare, the provider's medicaid median charge or the 75th percentile of the range of weighted medicaid median charges; or the following fee schedule:

AUDIOLOGY FEE SCHEDULE

Basic Audio Assessment (BAA)	$40.00
Hearing Aid Evaluation (HAE)	20.00
Speech Discrimination Test	8.00

Speech Reception Threshold	8.00
Pure Tone Air Threshold	8.00
Pure Tone Bone Threshold	8.00
Tympanogram (unilateral)	3.00
Tympanogram (bilateral)	6.00
Acoustic Reflex (bilateral)	8.00
Static Compliance	6.00
Bekesy	10.00
SISI (two or more frequency)	10.00
Loudness Balance or ABLB	10.00
Stenger	10.00
Doefler - Stewart	10.00
Lombard	10.00

46.12.542 HEARING AID SERVICES, REIMBURSEMENT (1) ~~Reimbursement for hearing aid services shall not exceed the usual and customary charges which are reasonable or the amounts allowed by the hearing aid fee schedule, whichever is lowest.~~ The department will pay the lowest of the following for hearing aid services: the provider's actual (submitted) charge for the service; the amount allowable for the same service under medicare, and for those services not covered by medicare, the provider's medicaid median charge or the 75th percentile of the range of weighted medicaid median charges; or the following fee schedule.

(2) Hearing aid fee schedule:

List of Services	Fee
Purchase of instrument	Wholesale cost & $250.00 dispensing fee
Hearing aid rental	$1.00 per day
Hearing aid service & repair (which includes a 6 month warranty)	$60.00 maximum per year per aid
Hearing aid recasing	$30.00 maximum per year per aid
Accessories (Cords, receivers, etc.)	$35.00 maximum per year per aid
Bone ossilator	$65.00 maximum per year per aid
Ear mold replacement	$15.00

Hearing aid batteries	$7.50/silver oxide standard package $5.00/all other standard package

46.12.547 OUTPATIENT OCCUPATIONAL THERAPY SERVICES, REIMBURSEMENT ~~Medicaid payment for outpatient occupational therapy services will be the lesser of usual and customary charges which are reasonable, the maximum allowed by medicare, or the following occupational therapy fee schedule:~~ The department will pay the lowest of the following for outpatient occupational therapy services: the provider's actual (submitted) charge for the service; the amount allowable for the same service under medicare; and for those services not covered by medicare, the provider's medicaid median charge or the 75th percentile of the range of weighted medicaid median charges; or the following fee schedule:

A. D. L.....	16.50
Occupational Therapy Evaluation.....	27.50
Home Instruction.....	27.50
One Modality.....	11.00
Two Modalities.....	12.10

46.12.557 PERSONAL CARE SERVICE, REIMBURSEMENT The department will pay the lowest of the following for personal care services: the provider's actual (submitted) charge for the service; or the amount allowable for the same service under medicare; and for those services not covered by medicare, the provider's medicaid median charge or the 75th percentile of the range of weighted medicaid median charges; or the following fee schedule. (1) Payment for personal care service shall be minimum wage plus 15 percent in lieu of fringe benefits except where exigent circumstances exist, a reasonable payment rate may be negotiated between the department and the provider.

(2) On a weekly basis, payment shall not exceed 80 percent of the cost of nursing home per diem except when prior authorized.

(3) Payment for registered nurse supervision shall be:

(a) ~~skilled nursing service rate established by a fee schedule when provided by a licensed home health agency under contract with the department~~ established in a contract with the department when provided by a licensed home health agency;

(b) $7.50 per hour when provided by an independent registered nurse; or

(c) where exigent circumstances exist, a reasonable payment rate may be negotiated between the department and the provider.

46.12.567 PRIVATE DUTY NURSING SERVICE, REIMBURSEMENT ~~Payment for private duty nursing services shall not exceed the lowest of usual and customary charges which are reasonable, the maximum amount payable by medicare.~~ The department will pay the lower of the following for private duty nursing services: the provider's actual (submitted) charge for the service; or the amount allowable for the same service under medicare; and for those services not covered by medicare, the provider's medicaid median charges; or $40.00 per eight (8) hour shift.

46.12.582 PSYCHOLOGICAL SERVICES, REIMBURSEMENT ~~Reimbursement for services shall be the lowest of:~~

~~(1) customary charges which are reasonable; or~~

~~(2) the amount payable by medicare for the same service; or~~ The department will pay the lowest of the following for psychological services:

(1) the provider's actual (submitted) charge for the service;

(2) the amount allowable for the same service under medicare; and for those services not covered by medicare, the provider's 75th percentile of the range of weighted medicaid median charges; or

(3) the following fee schedule:

~~(3)~~ (a) $34.27 for individual psychological services; or

~~(4)~~ (b) $10.28 for group psychological services.

46.12.605 DENTAL SERVICES, REIMBURSEMENT ~~Payment for dental services shall be limited to the lowest of usual and customary charges which are reasonable, the maximum amount payable by medicare.~~ The department will pay the lowest of the following for dental services: the provider's actual (submitted) charge for the service; the provider's medicaid median charge for the service; the amount allowable for the same service under medicare; and for those services which are not covered by Medicare the provider's 75th percentile of the range of weighted medicaid median charges; or the following fee schedule:

(1) Preventive and diagnostic services:

(a) examination and execution of forms - 7.80;

(b) complete intra-oral radiograms, minimum 14 films - 26.00;

(c) single periapical radiograms, first film - 5.20;

(d) each additional film, periapical - 2.60;

(e) bite-wing radiograms, 2 films - 7.80;

(f) intra-oral occlusal maxillary or mandibular - 6.50;

(g) cephalometric radiograms or panorex, diagnostic only - 26.00;

(h) extra-oral radiograms, maxillary or mandibular lateral film -19.50;

(i) allowable charges for x-rays in a single visit shall not exceed the allowable charges for a full mouth x-ray;
(j) consultation fee (necessity to be shown) per session -13.00;
(k) hospital calls - 19.50;
(l) simple operations under general anesthesia in hospital - 39.00;
(m) house calls and nursing home calls - 9.10;
(n) vitality tests one tooth or per quadrant - 7.80;
(o) palliative (emergency treatment of dental pain (includes only minor procedures, i.e., temporary fillings, incision and drainage, topical medicaments, irrigation, pericoronitis, etc.) - 7.80;
(p) stannus flouride 8%, one treatment, including prophylaxis - 22.10;
(q) flouride - 7.70;
(r) prophyliaxis, includes routine scaling and polishing/adults and children - 16.90;
(2) Amalgam restorations:
(a) deciduous, one surface - 12.32;
(b) deciduous, two surface - 20.16;
(c) deciduous, three surface - 28.16;
(d) each additional surface, deciduous - 3.30;
(e) one surface, permanent - 12.32;
(f) two surface, permanent - 20.16;
(g) three surface, permanent - 28.16;
(h) each additional surface (includes cusp restoration, veneer, groove extension, etc.) permanent - 4.80;
(i) pins for retention (maximum 2) each pin - 3.90.
(3) Silicates and fiberglass restorations (per surface):
(a) silicate - 13.00;
(b) compost resin (addent, dakor, adaptic, concise, prestige, etc.) - 19.20.
(c) composite fillings for posterior teeth will be paid at the rate of a similar amalgam restoration except for buccal surfaces.
(4) Additional operative procedures:
(a) acrylic jacket, immediate treatment for fractured anterior - 26.00;
(b) treatment filling (emergency) - 6.50;
(c) recement inlay - 6.50;
(d) pulpotomy - need authorization - 19.20;
(e) No extra fee for pulp capping or bases.
(5) Crown and bridge:
(a) three-quarter cast crown - 125.45;
(b) full cast crown - 125.45;
(c) cured acrylic jacket crown, laboratory processed - 104.00;
(d) porcelain jacket - 143.00;
(e) porcelain veneer (microbond, ceramco, etc.) - 184.00;

(f) full cast crown with acrylic facing - 184.00;
(g) gold and semi-precious crowns will be reimbursed at the same rate.
(6) Pedodontics, spacers, crowns, etc. amalgam restorations same as permanent teeth:
(a) chrome crown - 40.00;
(b) immediate treatment of fractured anterior permanent tooth, includes pulp testing, pulp capping and use of metal band or crown form with sedative filling - 20.80;
(c) chrome crown and loop spacer or other types (space maintainer) - 52.00;
(d) bilateral space maintainer or lingual arch - 82.50;
(e) acrylic denture, without clasps, supplying 1 to 4 (flipper) - 65.00;
(f) each additional tooth, permanent on acrylic denture (flipper) - 6.50;
(g) chrome wire clasps, adams, t or ball, each - 6.50;
(h) stainless steel band - 12.00.
(7) Prosthodontics:
(a) complete maxillary denture, acrylic, plus necessary adjustment - 336.00;
(b) complete mandibular denture, acrylic, plus necessary adjustment - 336.00;
(c) acrylic upper or lower partial denture with cast chrome clasps and rests replacing at least 4 posterior teeth plus adjustments - 260.00;
(d) maxillary cast chrome partial denture, acrylic saddles, 2 clasps and rests, replacing missing posterior teeth and one or more anterior teeth, plus adjustments - 325.00.
(8) Relines and repairs, etc.:
(a) Cured resin reline, lower - 86.45;
(b) cured resin reline, upper - 86.45;
(c) broken denture repair, no teeth, metal involved -32.00;
(d) denture adjustment - only where dentist did not make dentures - 7.80;
(e) replacing broken tooth o denture, first tooth - 24.00;
(f) each additional tooth after procedure (e) and (g) -6.50;
(g) adding teeth to partial to replace extraced natural teeth, first tooth - 32.50;
(h) replacing clasp, new clasp - 45.50;
(i) repairing (welding or soldering) palatal bars, lingual bars, metal connectors, etc. on chrome partials - 84.50;
(j) duplicate (jump) upper complete denture - 110.50;
(k) lower jump or duplicate - 110.50;
(l) placing name on new, full or partial dentures - 10.00.

(9) Pontics:
(a) steele's facing type, each - 97.50;
(b) pontic - ceramic only - 147.50;
(c) cured acrylic, laboratory processed, veneer - 97.50;
(10) Repairs:
(a) recement bridge - 13.00;
(b) recement crown - 6.50;
(c) porcelain facing - 26.00;
(d) replace broken steele's facing, post intact - 22.00;
(e) gold post - 55.00;
(f) steel post or dowel with amalgum buildup - 26.00;
(g) replace broken steele's facing, post broken - 32.50.
(11) Oral surgery:
(a) I and D of abcess intra-oral - 50.00;
(b) removal of tooth (includes shaping of ridge bone) - 14.88;
(c) surgical removal of tooth, soft tissue impaction - 32.50;
(d) surgical removal of tooth, partial bone impaction - 58.50;
(e) surgical removal of tooth, complete bone impaction - 97.50;
(f) alveolectomy, not in conjection with extractions, per quadrant - 32.50;
(g) excision of hyperplastic tissue/each quad - 32.50;
(h) removal of retained, residual roots, foreign bodies in bony tissue - 32.50;
(i) removal of cyst - 50.00;
(j) removal of retained, residual roots, foreign bodies in maxillary sinus - 97.50;
(k) frenectomy - 45.50;
(l) removal of exostosis torus, maxillary or mandibular - 65.00;
(m) biopsy, including pathology lab charges - 26.00;
(n) maxilla, open reduction - 326.30;
(o) fracture, simple, maxilla, treatment and care - 253.50;
(p) mandible, open reduction - 436.80;
(q) fracture, simple, mandible, treatment and care - 253.50;
(r) facial surgery - usual and customary charges which are reasonable.
(12) Endodontics:
(a) root canal chemotherapy and mechanical preparation, scaling and filing) - 112.00;
(b) root canal, each additional root up to two - 30.00;
(c) root canal and apicoectomy combined operation - 97.50;
(d) apicoectomy not in conjunction with root canal - 58.50.
(13) Anesthesia:

(a) general anesthesia administered in office - 39.00;
(b) nitrous oxide - 4.00;
(c) oral premedication - $10.00;
(d) parenteral premedication - $39.00
(14) Periodontal services:
(a) periodontal prophylaxis per quadrant - 16.90;
(b) gingival resection - 32.50;
(15) Dentist examining more than one medicaid recipient in a long-term care facility on the same day shall be allowed payment for one nursing home call over the examination fees. Examination is considered a recorded evaluation.
(16) Reimbursement - orthodontia:
(a) examination - 7.80;
(b) full treatment - records and diagnosis - 45.50;
(c) full treatment, initial fee - includes appliances - 315.00;
(d) full treatment, monthly fee (prior authorization will state maximum number at months) - 31.50;
(e) full treatment, retention service - 3.50;
(f) serial extractions, supervision - 3.50;
(g) partial treatment, expansion appliance - 175.00;
(h) partial treatment - head gear appliance - 175.00;
(i) special appliance, bilateral space maintainer, upper and lower - 82.50;
(j) special appliance, unilateral space maintainer - 52.00;
(k) special appliance, expansion appliance - 175.00;
(l) special appliance, retainer - 87.50;
(m) special appliance, habit appliance - 87.50.

46.12.801 PROSTHETIC DEVICES, DURABLE MEDICAL EQUIPMENT, AND MEDICAL SUPPLIES (1) Prosthesis, appliances and medical supplies may be provided upon the recommendation of the attending physician. This includes artificial limbs, artificial eyes, hearing aids, braces, splints, durable medical equipment such as wheelchairs, walkers, canes, crutches, hospital beds, and sickroom equipment. The rental or purchase of oxygen and oxygen equipment will also be charged to the prosthesis and appliance benefit.

(2) All prosthesis, braces, splints, durable medical equipment and other appliances which cost less than $75.00 may be purchased without prior authorization from the medical assistance bureau. It is necessary, however, to have a physician prescription attached to each claim. The equipment must be primarily medical in nature and appropriate for home use. It is necessary to secure prior authorization from the medical assistance bureau for items which cost more than $75.00. If equipment is to be rented, the total rental cost should not exceed the purchase price.

(3) In addition to the $75.00 value restriction without

prior authorization, the following are limitations of the medical assistance program as it relates to prosthesis, appliances, and medical supplies;

(a) Orthopedic shoes are not a benefit unless they are attached to a brace or other device.

(b) Shoe repair and shoe corrections are not benefits of the program.

(c) Wheelchairs, walkers, etc. utilized by nursing home patients may not be provided unless the item is of special design for the particular patient and is used exclusively by him or unless it is a necessary part of a discharged home plan.

(d) Convenience and comfort items such as air cleaners, grab bars, bed tables and tub seats are not a benefit of the program.

(4) The department will pay the lower of the following for prosthetic devices, durable medical equipment and medical supplies: the provider's actual (submitted) charge for the item; or the amount allowable for the same item under medicare; and for those items not covered by medicare, the provider's medicaid median charge or the 75th percentile of the range of weighted medicaid median charges.

46.12.905 OPTOMETRIC SERVICES, REIMBURSEMENT ~~(1) Payments for optometric services shall be the lowest of usual and customary charges which are reasonable or the amount payable by medicare or the following fee schedule for covered optometric services:~~ The department will pay the lowest of the following for optometric services: the provider's actual (submitted) charge for the service; or the amount allowable for the same service under medicare; and for those services not covered by medicare, the provider's medicaid median charge or the 75th percentile of the range of weighted medicaid median charges; or the following fee schedule.

(1) through (16) remains the same.

46.12.915 EYEGLASSES, REIMBURSEMENT ~~Reimbursement for eyeglasses shall be the lowest of usual and customary charges which are reasonable, the amount payable by medicare, or the amount reflected in the following fee schedule:~~ The department will pay the lowest of the following for eyeglasses: the provider's actual (submitted) charge for the service; or the amount allowable for the same service under medicare; and for those services not covered by medicare, the provider's medicaid median charge or the 75th percentile of the range of weighted medicaid median charges; or the following fee schedule:

(1) Lab costs for eyeglasses - optometrist

	Per Pair	
Hardened lenses-single vision	$19.80	
Hardened Lenses-bifocals	30.80	
Hardened lenses-trifocals	36.30	
Plastic lenses		
Add to single lenses	2.20	
Add to bifocal/trifocal	6.60	
Tinting, add to lense	3.30	
Frames	21.00	
Contact lenses	35.00	
Cataract lense	61.60	per lense
Balance lense	22.00	per lense

(2) Costs for eyeglasses - opticians and opthamologist

	Per Pair	
Single Vision	$50.00	
Bifocal	43.00	
Trifocal	55.00	
Plastic lenses		
Add to single lenses	4.00	
Add to bifocal/trifocal	11.00	
Tint (soft light 1, 2, and 3)	3.30	
Frame	26.00	
Metal Frame	30.00	
Cataract lense	61.60	per lense
Balance lense	22.00	per lense
4 drop cataract		
Single vision	165.00	
Bifocal	190.00	
Balance lense	67.50	
Frame (for 4 drop cataract)	30.00	

46.12.1005 TRANSPORTATION AND PER DIEM, REIMBURSEMENT The department will pay the lowest of the following for transportation and per diem: the provider's actual (submitted) charge for the service; or the amount allowable for the same service under medicare; and for those services not covered by medicare, the provider's medicaid median charge or the 75th percentile of the range of weighted medicaid median charges; or the following fee schedule.

(1) Reimbursement for common carrier will be paid on the basis of usual and customary charges.

(2) Reimbursement for transportation by private vehicle will be at the current state rate for state employees.

(3) Reimbursement for per diem shall be actual expenses incurred up to a maximum of $17.00 per day for each person.

(4) Reimbursement for private air charter shall be 93 cents per mile.

46.12.1015 SPECIALIZED NONEMERGENCY MEDICAL TRANSPORTATION, REIMBURSEMENT (1) ~~Reimbursement for specialized nonemergency medical transportation shall be the lowest of~~ The department will pay the lowest of the following for specialized nonemergency transportation: the provider's actual (submitted) charge for the service; or the amount allowable for the same service under medicare; and for those services not covered by medicare, the provider's medicaid median charge or the 75th percentile of the range of weighted medicaid median charges; the provider's rates as approved by the public service commission; or the rates allowed by the following specialized nonemergency medical transportation fee schedule.

(2) Specialized nonemergency medical transportation fee schedule.

(a) Transportation under 16 miles.....$ 8.00 one way
$14.00 round trip

Transportation over 16 miles.....$ .50 per mile

Waiting time for transportation over 16 miles.....$ 4.00 per hour
Computed in 15 minute increments or fraction thereof

Waiting time for under 16 miles....No payment

When one way transportation is over 16 miles and the unloaded miles exceeds ten percent of the loaded miles, the miles from the departure point to the pick-up point plus the miles from the delivery point to the departure point shall be paid for at the rate of.....$ .25 per mile

(b) There shall be no charge for usual passenger baggage which is not cargo.

(c) Children under six years of age accompanied by an adult paying passenger shall be carried free.

46.12.1025 AMBULANCE SERVICES, REIMBURSEMENT (1) Ambulance attendant services are included in the providers base rate.

(2) Reusable devices and equipment such as backboards, neckboards and inflatable leg and arm splints are considered part of the ambulance service and are included in the providers base rate.

(3) Nonreusable items and disposable supplies such as oxygen, gauze and dressings, are reimbursable as a separate charge.

(4) Medicaid reimbursement for mileage is allowed for patient loaded miles only outside the city limits.

(5) ~~Medicaid reimbursement will be the lesser of usual and customary charges which are reasonable, the individual providers medicare rate or the individual providers January 1980 medicaid rate plus 10 percent.~~ The department will pay the lowest of the following for ambulance services: the provider's actual (submitted) charge for the service; or the amount allowable for the same service under medicare; and for those services not covered by medicare, the provider's medicaid median charge or the 75th percentile of the range of weighted medicaid median charges; or the individual provider's January 1980 medicaid rate plus 10 percent.

46.12.2003 PHYSICIAN SERVICES, REIMBURSEMENT/GENERAL REQUIREMENTS AND MODIFIERS ~~(1) Payments for physician services will be the lesser of usual and customary charges which are reasonable, the amount payable by medicare, or the following fee schedule.~~ The department will pay the lowest of the following for physician services: the provider's actual (submitted) charge for the service; the provider's medicaid median charge for the service; or the amount allowable for the same service under medicare; and for those services not covered by medicare, the provider's 75th percentile of the range of weighted medicaid median charges; or the following fee schedule. ~~Services paid by report (BR) will be paid at 94.6000% of the fees which are comparable to usual and customary charges established by the provider in 1976.~~ The following reimbursement fee schedule applies to all rules in this sub-chapter.

(1) Services paid by report (BR) will be paid at 94.6000% of the fees which are comparable to usual and customary charges established by the provider in 1976.

(2) MODIFIERS

Listed services and procedures may be modified under certain circumstances. When applicable, the modifying circumstance should be identified by the addition of the appropriate modifier code, which is a two digit number placed after the usual procedure number from which it is separated by a hyphen. If more than one modifier is used, the "Multiple Modifiers" code placed first after the procedure code indicates that one or more additional modifier codes will follow. All procedures where a modifier is used may be paid By Report (BR). Modifiers commonly used are as follows:

-22 Unusual Services: When the service(S) provided is greater than that usually required for the listed procedure, it may be identified by adding modifier '-2' to the usual procedure number. A report may also be appropriate. (Pertains to Medicine, Anesthesia, Surgery, Radiology, and Pathology and Laboratory.)

-23 Unusual Anesthesia: Periodically, a procedure, which usually requires either no anesthesia or local anes-

thesia, because of unusual circumstances must be done under general anesthesia. This circumstance may be reported by adding the modifier '-23' to the procedure code of the basic service. (Pertains to Anesthesia, Surgery.)

-26 Professional Component: Certain procedures (eg, laboratory, radiology, electrocardiogram, specific diagnostic services) are a combination of a physician component and a technical component. When the physician component is reported separately, the service may be identified by adding the modifier '-26' to the usual procedure number. (Pertains to Medicine, Surgery, Radiology, and Pathology and Laboratory.)

-30 Anesthesia Service: The anesthesia service may be identified by adding the modifier '-30' to the usual procedural code number of the basic service. (Pertains to Anesthesia.)

-47 Anesthesia by Surgeon: When regional or general anesthesia is provided by the surgeon, it may be reported by adding the modifier '-47' to the basic service. (This does not include local anesthesia.) (Pertains to Anesthesia, and Surgery.)

-50 Multiple or Bilateral Procedures: When multiple or bilateral procedures are provided at the same operative session, the first major procedure may be reported as listed. The secondary or lesser procedure(s) may be identified by adding the modifier '-50' to the usual procedure number(s). (Pertains to Surgery, and Radiology.)

-52 Reduced Services: Under certain circumstances a service or procedure is partially reduced or eliminated at the physician's election. Under these circumstances the service provided can be identified by its usual procedure number and the addition of the modifier '-52', signifying that the service is reduced. This provides a means of reporting reduced services without disturbing the identification of the basic service. (Pertains to Medicine, Anesthesia, Surgery, Radiology, and Pathology and Laboratory.)

-54 Surgical Care Only: When one physician performs a surgical procedure and another provides preoperative and/or postoperative management, surgical services may be identified by adding the modifier '-54' to the usual procedure number. (Pertains to Surgery.)

-55 Postoperative Management Only: When one physician performs the postoperative management and another physician has performed the surgical procedure, the postoperative component may be identified by adding the modifier '-55' to the usual procedure number. (Pertains to Medicine, and Surgery.)

-56 Preoperative Management Only: When one physician performs the preoperative care and evaluation and another physician performs the surgical procedure, the preoperative component may be identified by adding the modifier '-56' to the usual procedure number. (Pertains to Medicine, and Surgery.)

-66 Surgical Team: Under some circumstances, highly complex procedures (requiring the concomitant services of several physicians, often of different specialties, plus other highly skilled, specially trained personnel and various types of complex equipment) are carried out under the 'surgical team' concept. Such circumstances may be identified by each participating physician with the addition of the modifier '-66' to the basic procedure number used for reporting services. (Pertains to Surgery.)

-75 Concurrent Care. Services Rendered by More than One Physician: When the patient's condition requires the additional services of more than one physician, each physician may identify his or her services by adding the modifier '-75' to the basic service performed. (Pertains to Medicine, Anesthesia, Surgery, and Radiology.)

-76 Repeat Procedure by Same Physician: The physician may need to indicate that a procedure or service was repeated subsequent to the original service. This may be reported by adding the modifier '-76' to the procedure code of the repeated service (Pertains to Medicine, Surgery, and Radiology.)

-77 Repeat Procedure by Another Physician: The physician may need to indicate that a basic procedure performed by another physician had to be repeated. This may be reported by adding modifier '-77' to the repeated service. (Pertains to Medicine, Surgery, and Radiology.)

-80 Assistant Surgeon: Surgical assistant services may be identified by adding the modifier '-80' to the usual procedure number(s). (Pertains to Surgery.)

-81 Minimum Assistant Surgeon: Minimum surgical assistant services are identified by adding the modifier '-81' to the usual procedure number. (Pertains to Surgery.)

-90 Reference (Outside) Laboratory: When laboratory procedures are performed by a party other than the treating or reporting physician, the procedure may be identified by adding the modifier '-90' to the usual procedure number. (Pertains to Medicine, Surgery, Radiology, and Pathology and Laboratory.)

-99 Multiple Modifiers: Under certain circumstances two or more modifiers may be necessary to completely delineate a service. In such situations modifier '-99' should be added to the basic procedure, and other applicable modifiers may be listed as a part of the description of the service. (Pertains to Medicine, Anesthesia, Surgery, and Radiology.)

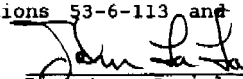
3. The Department is modifying these rules on reimbursement in order to comply with existing Federal regulations (42 CFR 447.341 - 352). The incorporation of these upper limits is necessary to assume the continuation of Federal financial participation.

The rule on reimbursement for personal care services (ARM 46.12.557) is being modified to reflect the method of payment for nurse supervision when that service is provided by a licensed home health agency under contract with the Department. This is a clarification of current policy.

4. Interested persons may present their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to the Office of Legal Affairs, Department of Social and Rehabilitation Services, P. O. Box 4210, Helena, Montana 59604, no later than May 29, 1981.

5. The Office of Legal Affairs, Social and Rehabilitation Services has been designated to preside over and conduct the hearing.

6. The authority of the agency to amend the nineteen rules is based on Section 53-6-113, MCA, and the amendments of these rules implement Sections 53-6-113 and 53-6-114, MCA.



Director, Social and Rehabilitation Services

Certified to the Secretary of State April 20, 1981.

BEFORE THE WORKERS' COMPENSATION COURT
OF THE STATE OF MONTANA

In the matter of the adoption of amendment to ARM 2.52.225.	)))	NOTICE OF ADOPTION OF AMENDMENT TO ARM 2.52. 225.

TO: All Interested Persons

1. On March 12, 1981 the Workers' Compensation Court published a Notice of Proposed Amendment to ARM 2.52.225 of the existing procedural rules of the Workers' Compensation Court at page 184 of the 1981 Montana Administrative Register, Issue No. 5.

2. The Workers' Compensation Court has adopted the amendments to the rule ARM 2.52.225 APPEALS TO WORKERS' COMPENSATION COURT UNDER TITLE 39, CHAPTERS 71 AND 72; AND TITLE 53, CHAPTER 9 as proposed with the following addition:

(History: Sec. 2-4-201 MCA; IMP, Sec. 2-4-201 MCA, Sec. 39-71-2903 MCA; NEW, 1980 MAR p.2642, Eff. 9/26/80; AMD, 1980 MAR p.2966, Eff. 11/29/80.)

3. No comments or testimony were received. The Court has amended its rule ARM 2.52.225 as proposed.

William E. Hunt
WILLIAM E. HUNT, JUDGE

CERTIFIED TO SECRETARY OF STATE April 14, 1981

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment of Rule 4.12.1016(1); increasing the fees for inspection of dry edible beans	NOTICE OF THE AMENDING RULE 4.12.1016(1) INCREASING FEES FOR INSPECTION OF DRY EDIBLE BEANS

TO: All Interested Persons.

1. On February 26, 1981, the Montana Department of Agriculture published notice of a proposed amendment to rule 4.12.1016(1), concerning the proposed increasing of fees for inspection of dry edible beans, at page 156-57 of the 1981 Montana Administrative Register, issue number 4.

2. The agency has amended the rule with a minor editorial change but substantially as proposed.

3. Comments were received as follows: (a) The Montana Legislative Council legal staff called attention to a typographical error in the authority citation; and (b) The United States Department of Agriculture Federal Grain Inspection Service submitted a letter dated February 23, 1981 indicating its agreement with the proposed increases.

No comments adverse to the proposed amendment were received.

4. The authority for the rule amendment is 80-3-509 MCA, and implements 80-3-509 MCA

W. Gordon McOmber

W. GORDON MCOMBER, Director

CERTIFIED TO THE SECRETARY OF STATE April 10, 1981

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the adoption of Chapter 52, Procedural Rules) NOTICE OF ADOPTION OF CHAPTER 52, PROCEDURAL RULES

TO: All Interested Persons:

1. On March 12, 1981, the board of public education published notice of a proposed amendment of chapter 52, procedural rules at page 190 of the 1981 Montana Administrative Register, issue number five.
2. The agency has adopted the rule as proposed.
3. No comments or testimony were received.

Marjorie W King
MARJORIE W. KING, CHAIRMAN
BOARD OF PUBLIC EDUCATION

BY: Rick Reese
Assistant to the Board

Certified to the Secretary of State April 20, 1981

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment of Rule 10.57.403, regarding the Class 3 Administrative Certificate.	))))	NOTICE OF THE AMENDMENT OF RULE 10.57.403

TO: All Interested Persons:

1. On March 12, 1981, the board of public education published notice of a proposed amendment of rule 10.57.403 concerning Class 3 Administrative Certificates at page 187 of the 1981 Montana Administrative Register, issue number five.

2. The agency has amended the rule as proposed.

3. No comments or testimony were received.

Marjorie W King
MARJORIE W. KING, CHAIRMAN
BOARD OF PUBLIC EDUCATION

BY: Rick Crose
Assistant to the Board

Certified to the Secretary of State April 20, 1981

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment of Rule 10.57.501 regarding certification of school psychologists	NOTICE OF PROPOSED AMENDMENT OF RULE 10.57.501, CERTIFICATION OF SCHOOL PSYCHOLOGISTS

TO: All Interested Persons.

1. On March 12, 1981, the board of public education published notice of a proposed amendment of rule 10.57.501, certification of school psychologists at page 194 of the 1981 Montana Administrative Register, issue number five.
2. The agency has amended the rule as proposed.
3. No comments or testimony were received.

Marjorie W. King
MARJORIE W. KING, CHAIRMAN
BOARD OF PUBLIC EDUCATION

BY: Rick Reese
Assistant to the Board

Certified to the Secretary of State April 20, 1981

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment of Rule 10.64.319 Fuel Tank-- Exceptions	)))	NOTICE OF AMENDMENT OF RULE 10.64.319 FUEL TANK--EXCEPTIONS

TO: All Interested Persons:

1. On March 12, 1981, the board of public education published notice of a proposed amendment of rule 10.64.319 concerning fuel tank - exceptions at page 185 of the 1981 Montana Administrative Register, issue number five.

2. The agency has adopted the rule as proposed.

3. No comments or testimony were received.

Marjorie W King
MARJORIE W. KING, CHAIRMAN
BOARD OF PUBLIC EDUCATION

BY: Keith Keese
Assistant to the Board

Certified to the Secretary of State April 20, 1981

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the transfer of a Superintendent of Public Instruction's Rule No. 10.7.102 to Board of Public Education Chapter 64, Sub-Chapter 7, Transportation Service Areas, Rule No. 10.64.701	))))))	NOTICE OF ADOPTION OF CORRECTION OF CLERICAL ERROR AND TRANSFER OF SUPERINTENDENT OF PUBLIC INSTRUCTION RULE NO. 10.7.102 TO BOARD OF PUBLIC EDUCATION

TO: All Interested Persons:

1. On March 12, 1981, the board of public education published notice of a proposed amendment of a superintendent of public instruction's rule no. 10.7.102 to the board of public education chapter 64, sub-chapter 7, transportation service areas, rule 10.64.701.

2. The agency has adopted the rule as proposed.

3. No comments or testimony were received.

Marjorie W King
MARJORIE W. KING, CHAIRMAN
BOARD OF PUBLIC EDUCATION

BY: Rick Reese
Assistant to the Board

Certified to the Secretary of State April 20, 1981

STATE OF MONTANA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL LICENSING
BEFORE THE BOARD OF HORSE RACING

In the matter of the amendments of ARM 40.20.501 subsection (23) concerning definitions; 40.20.601 concerning general provisions; 40.20.610 subsection (3) concerning stewards; 40.20.611 concerning timers; 40.20.705 concerning jockeys; 40.20.801 general requirements subsections (8) and (64)(c); 40.20.1608 concerning the mutel system; and 40.20.1618 subsection 40.20.1618 subsection (20) concerning twin quin feature.	NOTICE OF AMENDMENTS OF ARM 40.20.501 (23) DEFINITIONS; 40.20.601 GENERAL PROVISIONS; 40.20.610 (3) STEWARDS; 40.20.611 TIMERS; 40.20.705 JOCKEYS; 40.20.801 GENERAL REQUIREMENTS; 40.20.1608 THE MUTUEL SYSTEM; 40.20.1618 TWIN QUIN FEATURE

TO: All Interested Persons:

1. On March 12, 1981, the Board of Horse Racing published a notice of public hearing in the above entitled matter at pages 197 through 201, 1981 Montana Administrative Register, issue number 5

On April 3, 1981, a hearing was held in regard to the proposed amendments of ARM 40.20.501 (23) Definitions; 40.20.601 General Provisions; 40.20.610 (3) Stewards; 40.20.611 Timers; 40.20.705 Jockeys; 40.20.801 General Requirements; 40.20.1608 The Mutuel System; 40.20.1618 Twin Quin Feature. Three individuals appeared to present oral testimony and two individuals submitted written statements. Mr. Chub Askin, President of the Montana Division of the Horsemen's Benevolent Protective Association testified in favor of the proposed amendment of 40.20.501 and 40.20.801 (64). Mr. Reg Brewer, of Last Chance Racing, Helena, testified in opposition to the proposed change in Rule 40.20.601 saying that the proposed rule is too broad and that, if not narrowed to certain specified officials, the rule would make it very difficult to get qualified persons to perform all the necessary jobs at race meets. Mr. Murdo Campbell, Helena, testified on behalf of himself and the wagering public. Mr. Campbell testified in favor of the proposed amendment of Rule 40.20.601 saying that the rule is necessary to insure the integrity of the pari-mutuel betting system and the horse racing business. Written comments were received from two persons. Mr. Murdo Campbell submitted a written statement re-emphasizing his testimony at the hearing. Mr. Richard Heard, a member of the Board of Horse Racing, submitted a written statement commenting specifically on Rules 40.20.601, 40.20.611 and 40.20.801. Mr. Heard commented that 40.20.601 was too broad as proposed, suggested alternative language for a portion of 40.20.611, and suggested a minor clarification for Rule 40.20.801.

In the response to the comments received, the Board narrowed the proposed amendment of Rule 40.20.601 to include only certain specified officials, adopted the alternative language proposed by Mr. Heard for Rule 40.20.611, and made the minor clarification proposed for Rule 40.20.801. The amendments to all other rules listed in the original notice were adopted by the Board as proposed (new matter under lined, deleted matter interlined).

"40.20.501 (23) DEFINITIONS (remains as proposed)

40.20.601 GENERAL PROVISIONS (1)....

(4) No ~~racing official~~ steward, racing secretary, director of racing, patrol judge, security officer or starter shall serve in his capacity in regard to any race meet at which a horse owned by him or a member of his immediate family or in which he has a financial interest is entered in a race at such meeting."

40.20.610 STEWARDS (remains as proposed)

40.20.611 TIMERS (1)....

(3) (remains as proposed)

(a) (remains as proposed)

(4) The film strip can then be used to determine the times of the second and other finishers in that heat. In the event the film strip is also not available, ~~the placement method shall be used. Clarification of the placement method will be made to the participants by the Director of Racing prior to the running of the first trials.~~ then the finalist will be selected on a basis determined by the stewards to be the most equitable under the circumstances. The decision of the stewards shall be final in all matters.

40.20.705 JOCKEYS (1)....

(3)....

(a) (remains as proposed)

40.20.801 GENERAL REQUIREMENTS (1)....

(8) A sum equal to 10% of the first money of every purse won by a Montana bred horse shall be paid to the breeder of such horse. Such amount shall be paid within 30 days after the conclusion of the race meeting each year. Such amount shall not be deducted from the advertised purse. Only the money contributed by the licensee conducting the race meet may be considered in computing the bonus.

(9)....

(64) (remains as proposed)

40.20.1608 THE MUTUEL SYSTEM (1)....

(7) (remains as proposed)

(8) (remains as proposed)

40.20.1618 TWIN QUIN FEATURE (1)....

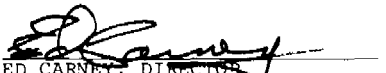
(20) (remains as proposed)

(21) (remains as proposed)

2. No other comments or testimony were received.

3. The board is amending and adopting the rules for the reasons as stated in the original notice and making the above changes based on the testimony presented.

BOARD OF HORSE RACING
DALE MAHLUM, CHAIRMAN



ED CARNEY, DIRECTOR
DEPARTMENT OF PROFESSIONAL
AND OCCUPATIONAL LICENSING

Certified to the Secretary of State, April 20, 1981

VOLUME NO. 39 OPINION NO. 12

ANNEXATION - County water and/or sewer districts;
COUNTY WATER AND/OR SEWER DISTRICTS - Addition of land;
ELECTIONS - Addition of land to a county water and/or sewer district;
SEWERS - Addition of land to a county water and/or sewer district;
WATER AND WATERWAYS - Addition of land to a county water and/or sewer district;
MONTANA CODE ANNOTATED - Sections 7-13-2214, 7-13-2341.
OPINIONS OF THE ATTORNEY GENERAL - 37 OP. ATT'Y GEN. NO. 161, at 663 (1978); 38 OP. ATT'Y GEN. NO. 47 (1979)

HELD: An ordinance for the addition of land to a county water and/or sewer district is adopted if:

(1) at least 40% of all registered voters residing within the proposed boundaries of the district have voted, and

(2) a majority of the votes cast in each municipal corporation or part of a municipal corporation within the proposed boundaries are in favor of adoption, and

(3) a majority of the votes cast in the unincorporated territory of each county within the proposed boundaries are in favor of adoption.

13 April 1981

Ted O. Lympus, Esq.
Flathead County Attorney
Flathead County Courthouse
P.O. Box 1516
Kalispell, Montana 59901

Dear Mr. Lympus:

You have requested my opinion on a question which I have stated as follows:

> In order for an ordinance for the addition of land to a county water and/or sewer district to be adopted, are favorable votes required both of a majority of the electors in the proposed addition and of a majority of the electors in the district, or is a majority of the electors in both areas combined sufficient?

Section 7-13-2341, MCA, provides for the addition of land to an already organized county water and/or sewer district. It states:

> (1) Any portion of any county, any municipality, or both, may be added to any district organized under the provisions of this part and part 22 at any time upon petition presented in the manner provided in this part and part 22 for the organization of such district.
>
> (2) The petition may be granted by ordinance of the board of directors of such district. Such ordinance shall be submitted for adoption or rejection to the vote of the electors in such district and in the proposed addition to a general or special election held, as provided in this part and part 22, within 70 days after the adoption of such ordinance.
>
> (3) If such ordinance is approved, the president and secretary of the board of directors shall certify that fact to the secretary of state and to the county recorder of the county in which such district is located. Upon the receipt of such last-mentioned certificate, the secretary of state shall within 10 days issue his certificate, reciting the passage of said ordinance and the addition of said territory to said district. A copy of such certificate shall be transmitted to and filed with the county clerk of the county in which such district is situated.
>
> (4) From and after the date of such certificate, the territory named therein shall be deemed added to and form a part of said district with all the rights, privileges, and powers set forth in this part and necessarily incident thereto.

It is a fundamental rule of statutory construction that statutes are to be read and considered in their entirety. See, e.g., McClanathan v. Smith, ____ Mont. _____, 606 P.2d 507, 510 (1980); 38 OP. ATT'Y GEN. NO. 47, at 3 (1979). While the statute specifies that the ordinance must be submitted to electors in both the district and the proposed addition, it does not specify what election results are necessary to constitute adoption of the ordinance. However,

subsection (1) states that a petition for addition of land is to be presented in the same manner as a petition for the initial organization of a district. Subsection (2) again refers to provisions elsewhere in the county water and/or sewer district laws for the holding of an election. Reading the statute as a whole, therefore, I find that the results of an election to add land are to be determined in the same manner as the results of an election for the initial organization of a district.

If the organization of a district were to require simple majority approval, then the answer to your question would be that a majority of the electors in both the district and proposed addition combined would be insufficient for the adoption of an ordinance to add land. However, section 7-13-2214, MCA, provides that the organization of a district is approved:

> (i)f at least 40% of all registered voters residing within the proposed district have voted and if a majority of the votes cast at such election in each municipal corporation or part thereof and in the unincorporated territory of each county included in such proposed district shall be in favor of organizing such county district....

It is well established that a statute should be construed so that no part of it is rendered meaningless. See Fletcher v. Paige, 124 Mont. 114, 119, 220 P.2d 484 (1950). If simple majority approval were the only requirement, the phrase "in each municipal corporation or part thereof and in the unincorporated territory of each county included in such proposed district" would be surplusage. I conclude, therefore, that section 7-13-2214, MCA, requires that the votes in each municipality be tallied separately from the votes in the unincorporated area, and that majority approval be obtained in each. See 37 OP. ATT'Y GEN. NO. 161, at 663, 669 (1978).

The plain intent of the legislature in establishing this requirement was to prevent any municipal area or any rural area from dominating a county water or sewer district. As applied to the initial organization of a district, the requirement prevents the inclusion of any municipal area or any rural area against its will. Cf. Tex. Water Code Ann., section 51-035 (Vernon) (providing that no municipality may be included in a district unless the organization of the

district is approved by a majority of the voters in the municipality, and that no lands outside of a municipality may be included in a district unless the organization of the district is approved independent of the vote in the municipality); See generally Shaddix v. Kendrick, 419 S.W.2d 908, 910 (Tex.Ct.App. 1967), rev'd. on other grounds, 430 S.W.2d 461 (Tex. 1968). As applied to the addition of land to an already existing district, the requirement tends to equalize the input of municipalities and unincorporated areas into the decision to add land.

THEREFORE IT IS MY OPINION,

An ordinance for the addition of land to a county water and/or sewer district is adopted if:

(1) at least 40% of all registered voters residing within the proposed boundaries of the district have voted, and

(2) a majority of the votes cast in each municipal corporation or part of a municipal corporation within the proposed boundaries are in favor of adoption, and

(3) a majority of the votes cast in the unincorporated territory of each county within the proposed boundaries are in favor of adoption.

Very truly yours,

MIKE GREELY
Attorney General