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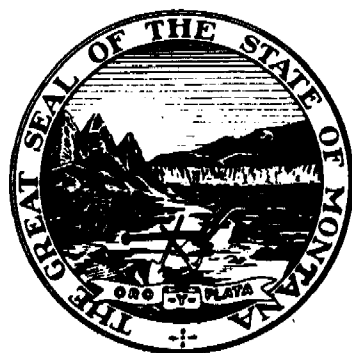
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**MONTANA
ADMINISTRATIVE
REGISTER**

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1989 ISSUE NO. 16
AUGUST 31, 1989
PAGES 1230 - 1300



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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 16

OF MONTANA

The Montana Administrative Register (MAR), a twice-monthly publication, has three sections. The notice section contains state agencies' proposed new, amended or repealed rules, the rationale for the change, date and address of public hearing and where written comments may be submitted. The rule section indicates that the proposed rule action is adopted and lists any changes made since the proposed stage. The interpretation section contains the attorney general's opinions and state declaratory rulings. Special notices and tables are inserted at the back of each register.

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BEFORE THE STATE AUDITOR
AND COMMISSIONER OF INSURANCE
OF THE STATE OF MONTANA

In the matter of the proposed	)	AMENDED NOTICE OF
adoption of rules pertaining to	)	PROPOSED ADOPTION OF
medicare supplement insurance	)	AMENDMENT OF ARM 6.6.509
minimum standards and proposed	)	AND ARM 6.6.511
amendment of ARM 6.6.506 through)	
ARM 6.6.511 and ARM 6.6.513)	

TO: All Interested Persons.

1. On August 17, 1989, the State Auditor and Commissioner of Insurance (commissioner) published notice of the proposed adoption and amendment of the above rules at page 1039 of the 1989 Montana Administrative Register, Issue No. 15.

2. The proposed amendments are corrected as follows:

6.6.509 REQUIRED DISCLOSURE PROVISIONS (1) through (7) same as proposed.

(8) The following notice requirements apply to all insurers providing medicare supplement insurance:

(a) As soon as practicable, but no later than 30 days prior to the annual effective date of any medicare benefit changes, every insurer, health care service plan or other entity providing medicare supplement insurance or benefits to a resident of this state shall notify its policyholders, contract holders and certificate holders of modifications it has made to medicare supplement insurance policies or contracts in a format acceptable to the commissioner. For the years 1989 and 1990 and if prescription drugs are covered in 1991, such notice shall be in a format prescribed in ARM 6.6.511, sample FORMS A, APPENDICES A, B and C. In addition, such notice shall:

(i) through (10) same as proposed.

AUTH: 33-1-313, 33-22-904, MCA IMP: 33-15-303 & 33-22-901-924, MCA

6.6.511 SAMPLE FORMS The following are sample forms of the outline of coverage and notices regarding replacement of medicare supplement policies:

(1) through (4) remains the same.

		THIS	
		MEDICARE POLICY	YOU
SERVICE//////////	BENEFIT//////////	PAYS////	PAYS/// PAY
HOSPITALIZATION			
semi-private/room/and			
board/general	FIXED/80	ALL/DAY	
nursing/and/niceel/	days	\$(180)	
lanes/and/niceel/			
services/and	800/80	ALL/DAY	
supplies/	800H/day	\$(45)/A	day
Includes/meals/			

SERVICE//////////	BENEFIT//////////	THIS	
		MEDICARE	POLICY YOU
		PAYS///	PAYS/// PAY
special/care/nurses/ drugs/lab/fees/ diagnostic/x-rays/ medical/supplies/ operating/and/or convy/room/and/or xmas/and/ambulance/ treatment/services	7122/20 12000/day Beyond/120 days	ALL/only \$(90)/a day Nothing	

POSTHOSPITAL SKILLED/NURSING CARE////	7122/20 days	100%/of costs	
in/a/facility/aff/ proved/by/Medicare/ you/must/have/been in/a/hospital/for/at least/14days/and enter/into/facility within/14/days/after hospital/discharge/	Additional 80/days Beyond/120 days	ALL/only \$(22/80) a/day Nothing	

MEDICAL/EXPENSE	Physician/s services/ inpatient and/only/ patient medical services and/supplies at/a/hospital/ physical/and speech/therapy/ and/ambulance/	80%/of reasonable charge after \$(80)/per admissible	
-----------------	---	---	--

DESCRIPTION	THIS POLICY	
	PAYS	YOU PAY

SERVICE

PART A

INPATIENT HOSPITAL SERVICES:

DESCRIPTION	THIS POLICY	
	PAYS	YOU PAY

Semi-Private Room & Board

16-8/31/89

MAR Notice No. 6-26

<u>DESCRIPTION</u>	<u>THIS POLICY</u> <u>PAYS</u>	<u>YOU PAY</u>
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INPATIENT HOSPITAL SERVICES (continued):

Miscellaneous Hospital Services
& Supplies, such as Drugs,
X-Rays, Lab Tests & Operating Room

SKILLED NURSING FACILITY CARE

BLOOD

PARTS A & B

Home Health Services

PART B

MEDICAL EXPENSE:

Services of a Physician/
Outpatient Services

Medical Supplies other than
Prescribed Drugs

BLOOD

MAMMOGRAPHY SCREENING

OUT-OF-POCKET MAXIMUM

PRESCRIPTION DRUGS

MISCELLANEOUS

Home IV-Drug Therapy

Immunosuppressive Drugs

Respite Care Benefits

IN ADDITION TO THIS OUTLINE OF COVERAGE, [INSURANCE COMPANY
NAME] WILL SEND AN ANNUAL NOTICE TO YOU 30 DAYS PRIOR TO THE
EFFECTIVE DATE OF MEDICARE CHANGES WHICH WILL DESCRIBE THESE
CHANGES AND THE CHANGES IN YOUR MEDICARE SUPPLEMENT COVERAGE.

(5) [The following charts shall accompany the outline of
coverage:]

PART A

MEDICARE BENEFITS IN

PART A (continued)

<u>Service</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>
<u>PART A</u>				
<u>Inpatient Hospital Services:</u>	<u>All but \$540 for first 60 days/benefit period</u>	<u>All but \$560 deductible for an unlimited number of days/calendar year</u>	<u>All but Part A deductible for an unlimited number of days/calendar year</u>	<u>All but Part A deductible for an unlimited number of days/calendar year</u>
<u>Semi-Private Room & Board</u>	<u>All but \$135 a day for 61st-90th days/benefit period</u>			
<u>Miscellaneous Hospital Services & Supplies, such as Drugs, X-rays, Lab Tests, & Operating Room</u>	<u>All but \$270 a day for 91st-150th days (if the individual chooses to use 60 non-renewable life-time reserve days)</u>			
	<u>Nothing beyond 150 days</u>			

<u>Skilled Nursing Facility Care</u>	<u>100% of costs for 1st 20 days (after a 3 day prior hospital confinement)</u>	<u>80% of Medicare reasonable costs for first 8 days per calendar year w/ out prior hospitalization requirement</u>	<u>80% for 1st 8 days/calendar year</u>	<u>80% for 1st 8 days/calendar</u>

<u>Service</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>
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PART A (continued)

<u>Skilled Nursing Facility Care</u>	<u>All but \$67.50 a day for 1st-100th days</u>	<u>Nothing beyond 100 days</u>	<u>100% of costs thereafter up to 150 days/ calendar year</u>	<u>100% for 9th-150th day/ calendar year</u>	<u>100% for 9th-150th day/ calendar year</u>
--------------------------------------	---	--------------------------------	---	--	--

<u>Blood</u>	<u>Pays all costs except nonre-placement fees (blood deductible) for first 3 pints in each benefit period</u>	<u>Pays all costs except payment of deductible (equal to costs for first 3 pints) each calendar year. Part A blood deductible reduced to the extent paid under Part B</u>	<u>All but blood deductible (equal to costs for first 3 pints)</u>	<u>All but blood deductible (equal to costs for first 3 pints)</u>
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<u>Service</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>
----------------	-------------	-------------	-------------	-------------

Parts A & B

<u>Home Health Services</u>	<u>Intermittent skilled nursing care and other services in the home (daily skilled nursing care for up to 21 days or longer in some cases) --100% of covered services and 80% of durable medical equipment under both Parts A & B</u>	<u>Same as '88</u>	<u>Intermittent skilled nursing care for up to 7 days a week for up to 38 days allowing for continuation of services under unusual circumstances; other services --100% of covered services and 80% of durable medical equipment under both Parts A & B</u>	<u>Same as '90</u>
-----------------------------	---	--------------------	---	--------------------

Service	1988	1989	1990	1991
---------	------	------	------	------

PART B

Medical Expense: Services of a Physician/ Outpatient Services	80% of reason- able charges after an annual \$75 deductible	80% after annual \$75 deductible	80% of reasonable charges after \$75 annual deduct- ible until out- of-pocket max- imum is reached. 100% of reason- able charges are covered for re- mainder of cal- endar year	Same as '90
---	---	--	---	----------------

Medical
Supplies
Other than
Prescribed
Drugs

Blood	80% of costs except non- replacement fees (blood deductible) for 1st 3 pints in each benefit per- iod after \$75 deductible	Pays 80% of all costs ex- cept payment of deductible (equal to costs for first 3 pints) each calendar year	Same as '89	Same as '89
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Mammo- graphy Screening	80% of ap- proved charge for elderly and disabled Medicare bene- ficiaries - exams avail- able every other year for women 65 & over	Same as '90
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16-8/31/89

MAR Notice No. 6-26

<u>Service</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>
<u>PART B</u>				

<u>Out-of-Pocket Maximum</u>	<u>\$1,370 consisting of Part B \$75 deductible, Part B blood deductible and 20% co-insurance</u>	<u>\$1,370- will be adjusted annually by Secretary of Health and Human Services</u>
------------------------------	---	---

<u>Outpatient Prescription Drugs</u>	<u>There is a \$550 total deductible applicable to home IV drug and immuno-suppressive drug therapies as noted below</u>	<u>Covered after \$600 deductible subject to 50% co-insurance</u>
--------------------------------------	--	---

<u>Home IV-Drug Therapy</u>	<u>80% of IV therapy drugs subject to \$550 deductible (deductible waived if home therapy is a continuation of therapy initiated in a hospital)</u>	<u>80% of IV therapy drugs subject to standard drug deductible (deductible waived if home therapy is a continuation of therapy</u>
-----------------------------	---	--

Service	1988	1989	1990	1991
---------	------	------	------	------

PART B (continued)

<u>Home IV- Drug Therapy</u>				<u>drugs initiat- ed in a hospi- tal)</u>
--------------------------------------	--	--	--	---

<u>Immuno- suppres- sive Drug Therapy</u>	<u>80% of costs during 1st year follow- ing a covered organ trans- plant (no special drug deductible; only the reg- ular Part B deductible)</u>	<u>Same as '88</u>	<u>Same as '88 for 1st year following covered transplant; 50% of costs during 2nd and following years (subject to \$550 deduct- ible)</u>	<u>Same as '90 (subject to \$600 deduct- ible)</u>
---	---	--------------------	---	--

<u>Respite Care Benefit</u>		<u>In-home care for chroni- cally depend- ent individual covered for up to 80 hours after either the out-of- pocket limit or the out- patient drug deductible has been met</u>	<u>Same as '90</u>
-------------------------------------	--	--	------------------------

(B 6.) Statement that the policy does or does not cover the following:

- (a) Private duty nursing;
- (b) Skilled nursing home care costs (beyond what is covered by Medicare);
- (c) Custodial nursing home care costs;
- (d) Intermediate nursing home care costs;

- (e) Home health care above number of visits covered by Medicare;
 - (f) Physician charges (above Medicare's reasonable charges);
 - (g) Drugs (other than prescription drugs furnished during a hospital or skilled nursing facility stay);
 - (h) Care received outside the U.S.A.;
 - (i) Dental care or dentures, checkups, routine immunizations, cosmetic surgery, routine foot care, examinations for the cost of eyeglasses or hearing aids.
- (# 7) A description of any policy provisions which exclude, eliminate, resist, reduce, limit, delay, or in any other manner operate to qualify payments of the benefits described in (i) above, including conspicuous statements;
- (a) That the chart summarizing Medicare benefits only briefly describes such benefits.
 - (b) That the Health Care Financing Administration or its Medicare publications should be consulted for further details and limitations.
- (# 8) A description of policy provisions respecting renewability or continuation of coverage, including any reservation of rights to change premium.
- (# 9) The amount of premium for this policy.

APPENDIX A

[COMPANY NAME]

NOTICE OF CHANGES IN MEDICARE AND YOUR
MEDICARE SUPPLEMENT INSURANCE - 1989

YOUR HEALTH CARE BENEFITS PROVIDED BY THE FEDERAL MEDICARE PROGRAM WILL CHANGE BEGINNING JANUARY 1, 1989. ADDITIONAL CHANGES WILL OCCUR ON MEDICARE BENEFITS IN THE FOLLOWING YEARS. THE MAJOR CHANGES ARE SUMMARIZED BELOW. THESE CHANGES WILL AFFECT HOSPITAL, MEDICAL AND OTHER SERVICES AND SUPPLIES PROVIDED UNDER MEDICARE. BECAUSE OF THESE CHANGES, YOUR MEDICARE SUPPLEMENT COVERAGE PROVIDED BY [COMPANY NAME] WILL CHANGE, ALSO. THE FOLLOWING OUTLINE BRIEFLY DESCRIBES THE MODIFICATIONS IN MEDICARE AND IN YOUR MEDICARE SUPPLEMENT COVERAGE. PLEASE READ CAREFULLY!

[A BRIEF DESCRIPTION OF THE REVISIONS TO MEDICARE PARTS A & B WITH A PARALLEL DESCRIPTION OF SUPPLEMENTAL BENEFITS WITH SUBSEQUENT CHANGES, INCLUDING DOLLAR AMOUNTS, PROVIDED BY THE

MEDICARE SUPPLEMENT COVERAGE IN SUBSTANTIALLY THE FOLLOWING FORMAT.1

<u>SERVICES</u>	<u>MEDICARE BENEFITS</u>	<u>YOUR MEDICARE SUPPLEMENT COVERAGE</u>
	<u>Effective</u> <u>January 1, 1989</u>	<u>Your 1988 Coverage</u> <u>Effective</u> <u>January 1, 1989</u>
<u>Medicare Now</u>	<u>Medicare</u>	<u>Per</u> <u>Your Coverage</u>
<u>Pays Per</u>	<u>Will Pay Per</u>	<u>Benefit</u> <u>Will Pay Per</u>
<u>Benefit Period</u>	<u>Calendar Year</u>	<u>Period</u> <u>Calendar Year</u>
<u>MEDI-</u>	<u>First 60 days-</u>	<u>Unlimited num-</u>
<u>CARE</u>	<u>All but \$540</u>	<u>ber of hospital</u>
<u>PART A</u>		<u>days after \$560</u>
<u>SER-</u>		<u>deductible</u>
<u>VICES</u>		
<u>AND</u>		
<u>SUPP-</u>		
<u>LIES</u>		
	<u>61st to 90th</u>	
	<u>day - All but</u>	
	<u>\$135 a day</u>	
	<u>91st to 150th</u>	
	<u>day - All but</u>	
	<u>\$270 a day (if</u>	
	<u>individual</u>	
	<u>chooses to use</u>	
	<u>60 nonrenew-</u>	
	<u>able lifetime</u>	
	<u>reserve days)</u>	
	<u>Beyond 150th</u>	
	<u>day - Nothing</u>	
<u>SKILLED</u>	<u>Requires a 3</u>	<u>There is no</u>
<u>NURSING</u>	<u>day prior</u>	<u>prior confine-</u>
<u>FACIL-</u>	<u>stay and enter</u>	<u>ment require-</u>
<u>ITY</u>	<u>the facility</u>	<u>ment for this</u>
<u>CARE</u>	<u>generally</u>	<u>benefit</u>
	<u>within 30 days</u>	
	<u>after</u>	
	<u>hospital dis-</u>	
	<u>charge</u>	

<u>SERVICES</u>	<u>MEDICARE BENEFITS</u>	<u>YOUR MEDICARE SUPPLEMENT COVERAGE</u>
	<u>Effective</u> <u>January 1, 1989</u>	<u>Your 1988 Coverage</u> <u>Effective</u> <u>January 1, 1989</u>
<u>Medicare Now</u>	<u>Medicare</u>	<u>Per</u> <u>Your Coverage</u>
<u>Pays Per</u>	<u>Will Pay Per</u>	<u>Benefit</u> <u>Will Pay Per</u>
<u>Benefit Period</u>	<u>Calendar Year</u>	<u>Period</u> <u>Calendar Year</u>
	<u>First 20 days-</u>	<u>First 8 days -</u>

<u>SERVICES</u>	<u>MEDICARE BENEFITS</u>	<u>YOUR MEDICARE SUPPLEMENT COVERAGE</u>
	<u>Effective</u> <u>January 1, 1989</u>	<u>Your 1988 Coverage</u> <u>Effective</u> <u>January 1, 1989</u>
<u>Medicare Now</u>	<u>Medicare</u>	<u>Per</u> <u>Your Coverage</u>
<u>Pays Per</u>	<u>Will Pay Per</u>	<u>Benefit</u> <u>Will Pay Per</u>
<u>Benefit Period</u>	<u>Calendar Year</u>	<u>Period</u> <u>Calendar Year</u>
<u>100% of costs</u>	<u>All but \$25.50</u> <u>a day</u>	
<u>21st through</u> <u>100th day -</u> <u>All but</u> <u>\$67.50 a day</u>	<u>9th through</u> <u>150th day -</u> <u>100% of costs</u>	
<u>Beyond 100</u> <u>days - Nothing</u>	<u>Beyond 150 days</u> <u>Nothing</u>	

MEDICARE BENEFITS YOUR MEDICARE SUPPLEMENT COVERAGE

<u>SERVICES</u>	<u>MEDICARE BENEFITS</u>	<u>YOUR MEDICARE SUPPLEMENT COVERAGE</u>
	<u>In 1989 Medi-</u> <u>care Part B</u>	<u>Effective</u> <u>January 1, 1989</u>
<u>Medicare Now</u>	<u>Pays the Same</u>	<u>Your Poli-</u> <u>icy Now</u>
<u>Pays Per</u>	<u>as in 1988</u>	<u>Pays</u> <u>Will Pay</u>
<u>Calendar Year</u>		
<u>MEDI-</u> <u>CARE</u> <u>PART B</u> <u>SER-</u> <u>VICES</u> <u>AND</u> <u>SUP-</u> <u>PLIES</u>	<u>80% of allow-</u> <u>able charges</u> <u>(after \$75</u> <u>deductible)</u>	<u>NOTE: Medicare</u> <u>benefits change</u> <u>on January 1,</u> <u>1990 as fol-</u> <u>lows: 80% of</u> <u>allowable</u> <u>charges (after</u> <u>\$1751 deduct-</u> <u>ible) until an</u> <u>annual Medicare</u> <u>Catastrophic</u> <u>limit is met.</u> <u>100% of allow-</u> <u>able charges</u> <u>for the remain-</u> <u>der of the cal-</u> <u>endar year.</u>
	<u>The limit in</u> <u>1990 is \$1370*</u> <u>and will be ad-</u> <u>justed on an</u> <u>annual basis.</u>	

SERVICES MEDICARE BENEFITS YOUR MEDICARE
SUPPLEMENT COVERAGE

	<u>Medicare Now</u>	<u>In 1989 Medi-</u>		<u>Effective</u>
	<u>Pays Per</u>	<u>care Part B</u>	<u>Your Pol-</u>	<u>January 1, 1989</u>
	<u>Calendar Year</u>	<u>Pays the Same</u>	<u>icy Now</u>	<u>Your Policy</u>
		<u>as in 1988</u>	<u>Pays</u>	<u>Will Pay</u>
<u>PRE-</u>	<u>Inpatient pre-</u>	<u>In 1989 Medi-</u>		
<u>SCRIP-</u>	<u>scription</u>	<u>care covers</u>		
<u>TION</u>	<u>drugs only</u>	<u>inpatient</u>		
<u>DRUGS</u>		<u>prescription</u>		
		<u>drugs only.</u>		

Effective Jan-
uary 1, 1990
Per Calendar
Year 80% of
allowable
charges for
home intra-
venous (IV)
therapy drugs
and 50% of
allowable
charges for
immunosuppre-
sive drugs af-
ter (\$550 in
1990) calendar
year deduct-
ible is met.

Effective Jan-
uary 1, 1991
Per Calendar
Year inpatient
prescription
drugs: 50% of
allowable
charges for all
other out-
patient pre-
scription drugs
after a \$600
calendar year
deductible is
met (the de-
ductible will
change).
Coverage will
increase to 60%
of allowable

<u>SERVICES</u>	<u>MEDICARE BENEFITS</u>	<u>YOUR MEDICARE SUPPLEMENT COVERAGE</u>
-----------------	--------------------------	--

PRE-
SCRIPTION
DRUGS

<u>Medicare Now</u>	<u>In 1989 Medi- care Part B</u>	<u>Your Pol- icy Now</u>	<u>Effective January 1, 1989</u>
<u>Pays Per</u>	<u>Pays the Same</u>	<u>Pays</u>	<u>Your Policy Will Pay</u>
<u>Calendar Year</u>	<u>as in 1988</u>		

charges in 1992
and to 80% of
allowable
charges from
1993 on.

*Expenses that count toward the Part B Medicare Catastrophic Limit include: the Part B deductible and copayment charges and the Part B blood deductible charges.

[ANY ADDITIONAL BENEFITS]

[Describe any coverage provisions changing due to Medicare modifications.]

[Include information about premium adjustments that may be necessary due to changes in Medicare benefits, or when premium changes, information will be sent.]

THIS CHART SUMMARIZING THE CHANGES IN YOUR MEDICARE BENEFITS AND IN YOUR MEDICARE SUPPLEMENT PROVIDED BY [COMPANY] ONLY BRIEFLY DESCRIBES SUCH BENEFITS. FOR INFORMATION ON YOUR MEDICARE BENEFITS CONTACT YOUR SOCIAL SECURITY OFFICE OR THE HEALTH CARE FINANCING ADMINISTRATION. FOR INFORMATION ON YOUR MEDICARE SUPPLEMENT [POLICY] CONTACT:

[COMPANY OR FOR AN INDIVIDUAL POLICY - NAME OF AGENT]
[ADDRESS/PHONE NUMBER]

APPENDIX B

[COMPANY NAME]
NOTICE OF CHANGES IN MEDICARE AND YOUR
MEDICARE SUPPLEMENT COVERAGE - 1990

YOUR HEALTH CARE BENEFITS PROVIDED BY THE FEDERAL MEDICARE PROGRAM WILL CHANGE BEGINNING JANUARY 1, 1990. ADDITIONAL CHANGES WILL OCCUR IN MEDICAL BENEFITS IN FOLLOWING YEARS. THE MAJOR CHANGES ARE SUMMARIZED BELOW. THESE CHANGES WILL AFFECT HOSPITAL, MEDICAL AND OTHER SERVICES AND SUPPLIES PROVIDED UNDER MEDICARE. BECAUSE OF THESE CHANGES YOUR MEDICARE SUPPLEMENT COVERAGE PROVIDED BY [COMPANY NAME] WILL CHANGE

ALSO, THE FOLLOWING OUTLINE BRIEFLY DESCRIBES THE MODIFICATIONS IN MEDICARE AND IN YOUR MEDICARE SUPPLEMENT COVERAGE. PLEASE READ THIS CAREFULLY!

[A BRIEF DESCRIPTION OF THE REVISIONS TO MEDICARE PARTS A & B WITH A PARALLEL DESCRIPTION OF SUPPLEMENTAL BENEFITS WITH SUBSEQUENT CHANGES, INCLUDING DOLLAR AMOUNTS, PROVIDED BY THE MEDICARE SUPPLEMENT COVERAGE IN SUBSTANTIALLY THE FOLLOWING FORMAT.]

<u>SERVICES</u>		<u>MEDICARE BENEFITS</u>		<u>YOUR MEDICARE SUPPLEMENT COVERAGE</u>	
		<u>Effective Jan-</u>	<u>uary 1, 1990</u>	<u>Your Cov-</u>	<u>Effective Jan-</u>
		<u>Medicare Now</u>	<u>Medicare Will</u>	<u>erage Now</u>	<u>uary 1, 1990</u>
		<u>Pays Per Cal-</u>	<u>Pay Per Cal-</u>	<u>Pays Per</u>	<u>Your Coverage</u>
		<u>endar Year</u>	<u>endar Year</u>	<u>Calendar</u>	<u>Will Pay Per</u>
				<u>Year</u>	<u>Calendar Year</u>
<u>MEDI-</u>	<u>Unlimited num-</u>				
<u>CARE</u>	<u>ber of hospi-</u>				
<u>PART A</u>	<u>tal days after</u>				
<u>SER-</u>	<u>\$560 de-</u>				
<u>VICES</u>	<u>ductible</u>				
<u>AND</u>					
<u>SUP-</u>					
<u>PLIES</u>					
<u>SKILLED</u>	<u>There is no</u>				
<u>NURSING</u>	<u>prior confine-</u>				
<u>FACIL-</u>	<u>ment require-</u>				
<u>ITY</u>	<u>ment for this</u>				
<u>CARE</u>	<u>benefit</u>				
	<u>First 8 days -</u>				
	<u>All but</u>				
	<u>\$25.50 a day</u>				
	<u>9th through</u>				
	<u>150th day -</u>				
	<u>100% of costs</u>				
	<u>Beyond 150</u>				
	<u>days - Nothing</u>				
<u>MEDI-</u>	<u>80% of allow-</u>	<u>80% of allow-</u>			
<u>CARE</u>	<u>able charges</u>	<u>able charges</u>			
<u>PART B</u>	<u>(after \$75 de-</u>	<u>(after \$75 de-</u>			
<u>SER-</u>	<u>ductible)</u>	<u>ductible) until</u>			
<u>VICES</u>		<u>an annual Medi-</u>			
		<u>care Catastro-</u>			
		<u>phic Limit* is</u>			
		<u>met. 100% of</u>			
		<u>allowable</u>			
		<u>charges for the</u>			

<u>SERVICES</u>	<u>MEDICARE BENEFITS</u>	<u>YOUR MEDICARE SUPPLEMENT COVERAGE</u>
	<u>Effective January 1, 1990</u>	<u>Your Coverage Now</u>
<u>Medicare Now</u>	<u>Medicare Will</u>	<u>Effective January 1, 1990</u>
<u>Pays Per Calendar Year</u>	<u>Pay Per Calendar Year</u>	<u>Pays Per Calendar Year</u>
		<u>Your Coverage Will Pay Per Calendar Year</u>

remainder of the calendar year. The limit in 1990 is \$1370 and will be

<u>SERVICES</u>	<u>MEDICARE BENEFITS</u>	<u>YOUR MEDICARE SUPPLEMENT COVERAGE</u>
	<u>Effective January 1, 1990</u>	<u>Your Coverage Now</u>
<u>Medicare Now</u>	<u>Medicare Will</u>	<u>Effective January 1, 1990</u>
<u>Pays Per Calendar Year</u>	<u>Pay Per Calendar Year</u>	<u>Pays Per Calendar Year</u>
	<u>adjusted on an annual basis.</u>	<u>Your Coverage Will Pay Per Calendar Year</u>

<u>PRE-SCRIPTION DRUGS</u>	<u>Inpatient prescription drugs.</u>	<u>Inpatient prescription drugs. 80% of allowable charges for home intravenous (IV) therapy drugs and 50% of allowable charges for immunosuppressive drugs after (\$550 in 1990) calendar year deductible is met.</u>
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*Expenses that you must pay out-of-pocket and that count toward the Part B Medicare Catastrophic Limit include: the Part B deductible and co-payment charges and the Part B blood deductible charges.

[ANY ADDITIONAL BENEFITS]

[Describe any coverage provisions changing due to Medicare modifications.]

[Include information about premium adjustments that may be

necessary due to changes in Medicare benefits, or when premium changes, information will be sent.1

THIS CHART SUMMARIZING THE CHANGES IN YOUR MEDICARE BENEFITS AND IN YOUR MEDICARE SUPPLEMENT PROVIDED BY [COMPANY] ONLY BRIEFLY DESCRIBES SUCH BENEFITS. FOR INFORMATION ON YOUR MEDICARE BENEFITS CONTACT YOUR SOCIAL SECURITY OFFICE OR THE HEALTH CARE FINANCING ADMINISTRATION. FOR INFORMATION ON YOUR MEDICARE SUPPLEMENT [Policy] CONTACT:

[COMPANY OR FOR AN INDIVIDUAL POLICY - NAME OF AGENT]
[ADDRESS/PHONE NUMBER]

APPENDIX C

[COMPANY NAME]
NOTICE OF CHANGES IN MEDICARE AND YOUR
MEDICARE SUPPLEMENT COVERAGE - 1991

YOUR HEALTH CARE BENEFITS PROVIDED BY THE FEDERAL MEDICARE PROGRAM WILL CHANGE BEGINNING JANUARY 1, 1991. ADDITIONAL CHANGES WILL OCCUR IN MEDICAL BENEFITS IN FOLLOWING YEARS. THE MAJOR CHANGES ARE SUMMARIZED BELOW. THESE CHANGES WILL AFFECT HOSPITAL, MEDICAL AND OTHER SERVICES AND SUPPLIES PROVIDED UNDER MEDICARE. BECAUSE OF THESE CHANGES YOUR MEDICARE SUPPLEMENT COVERAGE PROVIDED BY [COMPANY NAME] WILL CHANGE ALSO. THE FOLLOWING OUTLINE BRIEFLY DESCRIBES THE MODIFICATIONS IN MEDICARE AND IN YOUR MEDICARE SUPPLEMENT COVERAGE. PLEASE READ THIS CAREFULLY!

[A BRIEF DESCRIPTION OF THE REVISIONS TO MEDICARE PARTS A & B WITH A PARALLEL DESCRIPTION OF SUPPLEMENTAL BENEFITS WITH SUBSEQUENT CHANGES, INCLUDING DOLLAR AMOUNTS, PROVIDED BY THE MEDICARE SUPPLEMENT COVERAGE IN SUBSTANTIALLY THE FOLLOWING FORMAT.1

<u>SERVICES</u>	<u>MEDICARE BENEFITS</u>	<u>YOUR MEDICARE SUPPLEMENT COVERAGE</u>
	<u>Effective Jan-</u> <u>uary 1, 1991.</u>	<u>Your Cov- Effective Jan-</u> <u>erage Now uary 1, 1991</u>
<u>Medicare Now</u>	<u>Medicare Will</u>	<u>Pays Per Your Coverage</u>
<u>Pays Per Cal-</u>	<u>Pay Per Cal-</u>	<u>Calendar Will Pay Per</u>
<u>endar Year</u>	<u>endar Year</u>	<u>Year Calendar Year</u>
<u>MEDI-</u>	<u>Unlimited_num-</u>	
<u>CARE</u>	<u>ber of hospi-</u>	
<u>PART A</u>	<u>tal days af-</u>	
<u>SER-</u>	<u>ter (\$)</u>	
<u>VICES</u>	<u>deductible</u>	
<u>AND</u>		
<u>SUP-</u>		
<u>PLIES</u>		

SERVICES	MEDICARE BENEFITS	YOUR MEDICARE SUPPLEMENT COVERAGE	
	Effective Jan- uary 1, 1991.	Your Cov- erage Now	Effective Jan- uary 1, 1991
Medicare Now	Medicare Will	Pays Per	Your Coverage
Pays Per Cal- endar Year	Pay Per Cal- endar Year	Calendar Year	Will Pay Per Calendar Year
SKILLED NURSING FACIL- ITY CARE	There is no prior confine- ment require- ment for this benefit		
	First 8 days - All but 1\$ 1 a day		
	9th through 150th day - 100% of costs		

SERVICES	MEDICARE BENEFITS	YOUR MEDICARE SUPPLEMENT COVERAGE	
	Effective Jan- uary 1, 1991.	Your Cov- erage Now	Effective Jan- uary 1, 1991
Medicare Now	Medicare Will	Pays Per	Your Coverage
Pays Per Cal- endar Year	Pay Per Cal- endar Year	Calendar Year	Will Pay Per Calendar Year
	Beyond 150 days - Nothing		
MEDI- CARE PART B SER- VICES AND SUP- PLIES	80% of allow- able charges (after \$75 de- ductible) until an annual Medi- care Catastro- phic Limit* is met. 100% of allowable charges for the remainder of the calen- dar year. The limit in 1990 is \$1370 and will be ad- justed on an annual basis.	80% of allow- able charges (after \$75 de- ductible) un- til an annual Medicare Catastrophic Limit* is met. 100% of allow- able charges for the re- mainder of the calendar year. The limit in 1991 is \$ 1 and will be ad- justed on an annual basis.	

SERVICES	MEDICARE BENEFITS	YOUR MEDICARE SUPPLEMENT COVERAGE
	Effective January 1, 1991.	Your Coverage Effective January 1, 1991
	Medicare Will Pay Per Calendar Year	Medicare Will Pay Per Calendar Year
PRE-SCRIPTION DRUGS	Inpatient prescription drugs, 80% of allowable charges for home IV therapy drugs and 50% of allowable charges for immunosuppressive drugs after a \$550 calendar year deductible is met.	Same as 1990 and 50% of allowable charges for all other outpatient prescription drugs after \$600 calendar year deductible is met.

*Expenses that you must pay out-of-pocket and that count toward the Part B Medicare Catastrophic Limit include: the Part B deductible and co-payment charges and the Part B blood deductible charges.

[ANY ADDITIONAL BENEFITS]

[Describe any coverage provisions changing due to Medicare modifications.]

[Include information about premium adjustments that may be necessary due to changes in Medicare benefits, or when premium changes, information will be sent.]

THIS CHART SUMMARIZING THE CHANGES IN YOUR MEDICARE BENEFITS AND IN YOUR MEDICARE SUPPLEMENT PROVIDED BY [COMPANY] ONLY BRIEFLY DESCRIBES SUCH BENEFITS. FOR INFORMATION ON YOUR MEDICARE BENEFITS CONTACT YOUR SOCIAL SECURITY OFFICE OR THE HEALTH CARE FINANCING ADMINISTRATION. FOR INFORMATION ON YOUR MEDICARE SUPPLEMENT [Policy] CONTACT:

[COMPANY OR FOR AN INDIVIDUAL POLICY - NAME OF AGENT]
[ADDRESS/PHONE NUMBER]

(2) Sample Form B - Notice Regarding Replacement:
 (To be used by an insurer other than a direct response insurer.)

NOTICE TO APPLICANT REGARDING REPLACEMENT
OF ACCIDENT AND SICKNESS INSURANCE

According to (your application) (information you have furnished), you intend to lapse or otherwise terminate existing accident and sickness insurance and replace it with a policy to be issued by (Company Name) Insurance Company. Your new policy provides 10 30 days within which you may decide without cost whether you desire to keep the policy. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

- (1) Health conditions which you may presently have (pre-existing conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits under the new policy, whereas a similar claim might have been payable under your present policy.
- (2) You may wish to secure the advice of your present insurer or its agent regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.
- (3) If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

The above "Notice to Applicant" was delivered to me on:

(Date)

(Applicant's Signature)

IT//Sample/Form/C//Notice/Regarding/Replacement/
To/be/used/by/a/direct/response/insurance//

**NOTICE/TO/APPLICANT/REGARDING/REPLACEMENT
OF/ACCIDENT/AND/SICKNESS/INSURANCE**

[illegible]

(X)Y headIYh//cɔnɔdɪlɪʃəns//wɪlɪʃh//pɒv//maɪ/
 prɛsɛntIY//naɪv////prɛsɛɪsɪŋ
 cɔnɔdɪtɪʃnIY//maɪ/ɔv//be/ʌmbeɪlətɪʃ/ɔv/
 fɪlɪY//ɔvɔvbeɪv/ʌndɛr/ʌhe/nɛw/ɒpɪʃəv/
 Thɪs/cɔnɔd/keɪsɪl/ʌt/ðeɪv/ɔv/ðeɪv/ɔv/
 ə/ɔvɪʃn/ɪz/ɪ/betɛrɪʃs/ʌndɛr/ʌhe/nɛw
 pɒlɪsɪY//wɪtɛbeɪs/ə/sɪnɪlɪz/ɪ/ʌlɪʌn/maɪnt/
 naɪv/ɪbeɪn/praɪvɪtɪv/ʌndɛr/ɒpɒv/prɛsɛnt
 pɒlɪsɪY...

22) You/naɪ/ʌlɪs/vo/seeɪz/ə/le/əd/vɪz/ɒf
 you/ɪ/pɪsɪnt/ʌlɪs/vɪz/ɒf/ɪz/ə/leɪt/
 rɛgɪdɪŋ/ə/le/vɒvɒsɪ/ɪplæsmɛnt/ɒf/
 you/ɪ/pɪsɪnt/ɒlɒlɒz/ɪ/ɪlɪs/və/ɒv/ɒnɪ/
 you/ɪ/ɪŋtə/bu/ɪz/ɪs/ɪz/ɒ/ɪn/ɦoʊ/əbɪt/
 ɪnkrɛsɪv/ɒ/make/əutə/ɦoʊ/ʌndɛrɪzɪnd
 əɪl/ə/le/və/vɒv/ɪz/ɛɪz/ɪ/ɦoʊ/əbɪt/ɪn
 rɛplæsmɛnt/you/ɪ/pɪsɪnt/ɒvɛrɪz/ɛɪl/

123 I to be included only if the applicant is
 is attached to the party / if the
 due, considered, / you will be
 examined / you / present / party / and
 replace it with new arrangements / read the
 copy of the / the / applicant / attached to
 you / new policy / and / be / out of all
 questions / are / answered / fully / and
 correctly / on the / / witness
 in the / applicant / could / cause / in
 the witness / value / claim / to / be / involved /
 clearly / to the / applicant / and
 write / to / company / name / and / address /
 within / 30 days / of / the / notification / is
 not / complete / to / if / any
 past medical history / has / been / or
 of the applicant

////////////////////////////////////(Company/Name)

(3) SAMPLE FORM C - NOTICE REGARDING
REPLACEMENT, (TO BE USED BY A DIRECT RESPONSE
INSURER.)

NOTICE TO APPLICANT REGARDING REPLACEMENT
OF ACCIDENT AND SICKNESS INSURANCE

ACCORDING TO (YOUR APPLICATION) (INFORMATION YOU HAVE
FURNISHED) YOU INTEND TO LAPSE OR OTHERWISE TERMINATE
EXISTING ACCIDENT AND SICKNESS INSURANCE AND REPLACE
IT WITH THE POLICY DELIVERED HERewith ISSUED BY
(COMPANY NAME) INSURANCE COMPANY. YOUR NEW POLICY
PROVIDES 30 DAYS WITHIN WHICH YOU MAY DECIDE WITHOUT
COST WHETHER YOU DESIRE TO KEEP THE POLICY. FOR YOUR
OWN INFORMATION AND PROTECTION, YOU SHOULD BE AWARE
OF AND SERIOUSLY CONSIDER CERTAIN FACTORS WHICH MAY
AFFECT THE INSURANCE PROTECTION AVAILABLE TO YOU
UNDER THE NEW POLICY.

(1) HEALTH CONDITIONS WHICH YOU MAY
PRESENTLY HAVE (PRE-EXISTING CONDITIONS) MAY NOT BE
IMMEDIATELY OR FULLY COVERED UNDER THE NEW POLICY.
THIS COULD RESULT IN DENIAL OR DELAY OF A CLAIM FOR
BENEFITS UNDER THE NEW POLICY. WHEREAS A SIMILAR
CLAIM MIGHT HAVE BEEN PAYABLE UNDER YOUR PRESENT
POLICY.

(2) YOU MAY WISH TO SECURE THE ADVICE OF
YOUR PRESENT INSURER OR ITS AGENT REGARDING THE
PROPOSED REPLACEMENT OF YOUR PRESENT POLICY. THIS IS
NOT ONLY YOUR RIGHT, BUT IT IS ALSO IN YOUR BEST
INTEREST TO MAKE SURE YOU UNDERSTAND ALL THE RELEVANT
FACTORS INVOLVED IN REPLACING YOUR PRESENT COVERAGE.

(3) (TO BE INCLUDED ONLY IF THE APPLICATION
IS ATTACHED TO THE POLICY.) IF, AFTER DUE
CONSIDERATION, YOU STILL WISH TO TERMINATE YOUR
PRESENT POLICY AND REPLACE IT WITH NEW COVERAGE, READ
THE COPY OF THE APPLICATION ATTACHED TO YOUR NEW
POLICY AND BE SURE THAT ALL QUESTIONS ARE ANSWERED
FULLY AND CORRECTLY. OMISSIONS OR MISSTATEMENTS IN
THE APPLICATION COULD CAUSE AN OTHERWISE VALID CLAIM
TO BE DENIED. CAREFULLY CHECK THE APPLICATION AND
WRITE TO (COMPANY NAME AND ADDRESS) WITHIN 10 DAYS IF
ANY INFORMATION IS NOT CORRECT AND COMPLETE, OR IF
ANY PAST MEDICAL HISTORY HAS BEEN LEFT OUT OF THE
APPLICATION.

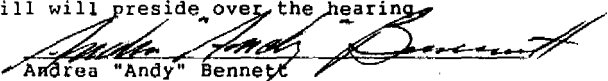
(COMPANY NAME)

AUTH: 33-1-313, 33-22-904, MCA IMP: 33-15-303 &
33-22-901 through 33-22-924, MCA

3. The proposed amendments add language which was inadvertently not included in the notice of the proposed adoption and amendment of the above rules at pge 1039 of the 1989 Montana Administrative Register, Issue No. 15.

4. Interested persons may present oral or written comments at the hearing. Written comments may also be submitted to David Barnhill, State Auditor's Office, P.O. Box 4009, Helena, Montana, 59604, before September 15, 1989.

5. David Barnhill will preside over the hearing


Andrea "Andy" Bennett
State Auditor and
Commissioner of Insurance

Certified to the Secretary of State this 21st day of August, 1989.

BEFORE THE STATE AUDITOR
AND COMMISSIONER OF INSURANCE
OF THE STATE OF MONTANA

In the matter of the proposed)
amendment of ARM 6.6.505) NOTICE OF PROPOSED
) AMENDMENT

NO PUBLIC HEARING
CONTEMPLATED

TO: All Interested Persons.

1. On October 2, 1989, the Insurance Department of the State Auditor's Office proposes to amend ARM 6.6.505.

2. The proposed amendment of ARM 6.6.505 will read as follows:

6.6.505 POLICY DEFINITIONS AND TERMS No insurance policy or subscriber contract may be advertised, solicited, or issued for delivery in this state as a medicare supplement policy if it contains, as to matters set forth in (1) through (10) below, definitions or terms which do not conform to the requirements of this rule.

(1)(a) remains the same.

(b) The definition may provide that injuries may not include injuries for which benefits are provided under any workers' compensation, employer's liability or similar law, motor vehicle no-fault plan, unless prohibited by law ~~for injuries occurring while the insured person is engaged in any activity pertaining to any trade, business, employment, or occupation for wage or profit.~~

(2) through (10) remain the same.

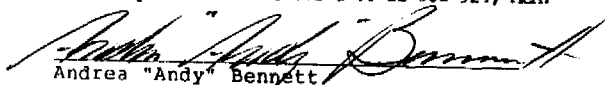
3. The proposed amendment deletes language which is no longer required in medicare supplement policies advertised, solicited, or issued for delivery in this state and which was inadvertently not included in the notice of the proposed adoption and amendment of ARM 6.6.509 and ARM 6.6.511 at page 1039 of the 1989 Montana Administrative Register, Issue No. 15.

4. Interested persons may submit written comments no later than September 28, 1989, to David Barnhill, State Auditor's Office, P.O. Box 4009, Helena, MT, 59604.

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 David Barnhill, State Auditor's Office, P. O. Box 4009, Helena, MT 59604 no later than September 28, 1989.

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.

7. The authority of the State Auditor to amend the above is based on 33-1-313, MCA and implements 33-15-303 & 33-22-901-924, MCA.


Andrea "Andy" Bennett
State Auditor and
Commissioner of Insurance

Certified to the Secretary of State this 21st day of August, 1989.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF ATHLETICS

In the matter of the proposed) NOTICE OF PROPOSED AMENDMENT
amendment of rules pertaining) OF 8.8.2901, 8.8.3105, 8.8.
to boxing contestants, down,) 3107, 8.8.3108 PERTAINING TO
fouls, and appeals) ATHLETICS

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On September 30, 1989, the Board of Athletics
proposes to amend the above-stated rules.

2. The proposed amendment of 8.8.2901 will read as
follows: (new matter underlined, deleted matter interlined)
(full text of the rule is located at pages 8-255 and 8-256,
Administrative Rules of Montana)

"8.8.2901 BOXING CONTESTANTS (1) will remain the same.

(2) No contestant under the age of 18 or over the age
of 35 will be licensed to box in Montana unless permission is
granted by the board.

(3) through (10) will remain the same."

Auth: Sec. 23-3-405, MCA; IMP, Sec. 23-3-404, 23-3-405,
23-3-603, MCA

REASON: This amendment will allow the Board to make the
decision whether a boxer is in condition to fight. Other
states have this rule in the form being proposed. The rule
would relax age limitations and shift the basis for the
decision boxer's condition.

3. The proposed amendment of 8.8.3105 will read
as follows: (new matter underlined, deleted matter
interlined) (full text of the rule is located at page 8-263,
Administrative Rules of Montana)

"8.8.3105 DOWN (1) through (7) will remain the same.

(8) When a contestant is "down" his opponent shall
retire to the farthest-neutral corner designated by the
referee and remain there until the count is completed. Should
he fail to do so, the referee may cease counting until he has
so retired."

Auth: Sec. 23-3-405, MCA; IMP, Sec. 23-3-405

REASON: This amendment is being proposed for clarification of
the corner where a fighter is to retire to when his opponent
has been knocked down. All corners are neutral except between
rounds. If the boxer being counted falls at the standing
fighter's corner, the referee may designate the corner he is
to be sent to. Furthermore the standing fighter should not
be exposed to penalty if he misjudges which corner is the
"farthest neutral corner."

4. The proposed amendment of 8.8.3107 will read as follows: (new matter underlined, deleted matter interlined) (full text of the rule is located at page 8-264, Administrative Rules of Montana)

"8.8.3107 FOULS (1) and (2) will remain the same.

(3) Any boxer claiming to be struck by a foul blow must be immediately examined by the board doctor, and if he is not available, by some doctor procured by the referee, or the inspector. If it is the opinion of the examining doctor that the boxer is only temporarily injured, and after a short rest ~~(which-in-any-event-shall-not-exceed-20-minutes)~~ he can proceed, the boxer shall be ordered to do so by the referee.

(4) through (7) will remain the same."

Auth: Sec. 23-3-405, MCA; IMP, Sec. 23-3-405, MCA

REASON: This amendment is being proposed because this decision is an important safety decision, which should be made by the ring physician, referee and board representative which should not be subject to a time limit. In some cases, 20 minutes is too long. In others it is not long enough, depending on the injury.

5. The proposed amendment of 8.8.3108 will read as follows: (new matter underlined, deleted matter interlined)

"8.8.3108 APPEAL OF DECISIONS OF OFFICIALS (1) through (1)(d) will remain the same.

(e) the compilation of the score cards of the judges discloses an error which shows that the decision was given to the wrong boxer.

(2) will remain the same."

Auth: Sec. 23-3-405, MCA; IMP, Sec. 23-3-405, MCA

REASON: The board is proposing this amendment to provide a standard of reviewing judges score cards and allowing for reversing a decision if an error is revealed. Recent experience has demonstrated that this also is a subject of controversy that reflects upon the appearance of integrity of the sport.

6. Interested persons may submit their data, views or arguments concerning the proposed amendments in writing to the Board of Athletics, 1424 - 9th Avenue, Helena, Montana 59620-0407, no later than September 28, 1989.


7. If a person who is directly affected by the proposed amendments wishes to express his data, views or arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any comments he has to the Board of Athletics, 1424 - 9th Avenue, Helena, Montana 59620-0407, no later than September 28, 1989.

8. If the board receives requests for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of those persons who are directly affected by the proposed amendments, from the Administrative Code Committee of

the legislature, from a governmental agency or subdivision or from an association having no 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 4 based on the 45 licensees in Montana.

BOARD OF ATHLETICS
JOHN R. HALSETH, M.D., CHAIRMAN

BY:


MICHAEL L. LETSON, DIRECTOR
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, August 21, 1989.

BEFORE THE FISH AND GAME COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment	)	NOTICE OF PUBLIC HEARING
of ARM 12.6.901 pertaining	)	ON THE PROPOSED AMENDMENT
to Water Safety Regulations	)	OF ARM 12.6.901

TO: All interested persons

1. On September 20, 1989, at 7:00 o'clock p.m., a public hearing will be held in the Commissioners' Room of the Broadwater County Courthouse at Townsend, Montana to consider amending this rule.

2. This Rule is being amended in response to the request of the Department of Natural Resources and Conservation. That Department feels a closure is needed to reduce a recognized public safety threat.

3. The rule as proposed provides as follows:

12.6.901 WATER SAFETY REGULATIONS Sections (1) through (f) remain the same.

(g) The following waters are closed to all swimming, boating, sailing and floating:

Broadwater County:

The Missouri River between Toston Dam and 300 feet downstream of the dam and the reservoir between the dam and the boat barrier.

(2) Remains the same.

AUTH: 87-1-303, 23-1-106(1), MCA


IMP: 87-1-303, 23-1-106(1), MCA

4. These areas are being closed because of dangers to public safety. Below the dam, strong currents caused by discharges from the power unit and over the spillway create a swimming and boating hazard above the dam, strong currents near the spillway bays, power plant intake, and irrigation canal intake present a similar hazard.

5. Interested parties may submit their data, views or arguments concerning the rule orally or in writing at the hearing. Written data, views or arguments may also be submitted to Fred Robinson, Staff Attorney, Department of Fish, Wildlife and Parks, 1420 East Sixth, Helena, Montana, 59620, no later than September 28, 1989.

6. Fred Robinson, Staff Attorney, has been designated to preside over and conduct the hearing.

7. The authority of the agency to make the proposed amendment is based on section 87-1-303, MCA, and the rule implements section 87-1-303, MCA.


K. L. Cool, Secretary
Montana Fish and Game
Commission

Certified to the Secretary of State August 21, 1989.

BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES
OF THE STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING
amendment of rules 16.8.807 and) ON PROPOSED AMENDMENT
16.8.809 concerning the monitoring) OF RULES
and reporting of air quality data)
(Air Quality Monitoring)

To: All Interested Persons

1. On November 17, 1989, at 9:00 a.m. the Board will hold a public hearing in Room C209 of the Cogswell Building, 1400 Broadway, Helena, Montana, to consider the amendment of the above-captioned rules.

2. The proposed amendment would update the rules to incorporate the most recent revision of the Montana Quality Assurance Manual, a revision which affects the air quality monitoring audit, operations, and personnel sections of the manual and focuses primarily on use of new equipment and techniques.

3. The rules, as proposed to be amended, appear as follows (new material is underlined; material to be deleted is interlined):

16.8.807 AMBIENT AIR MONITORING (1) Same as existing rule.

(2) Except as otherwise provided in this chapter, or unless written approval is obtained from the department for an exemption from a specific part of the Montana Quality Assurance Manual (~~Sept.--1986-ed.~~)(March 1989 ed.), all sampling and data collection, recording, analysis, and transmittal, including but not limited to site selection, precision and accuracy determinations, data validation procedures and criteria, preventive maintenance, equipment repairs, and equipment selection must be performed as specified in the Montana Quality Assurance Manual (~~Sept.--1986--ed.~~)(March 1989 ed.) except when more stringent requirements are determined by the department to be necessary pursuant to the U.S. Environmental Protection Agency Quality Assurance Manual (EPA-600/9-76-005, revised Dec. 1984 Vol. I; EPA-600/4-77-027a, revised Jan. 1983, Vol II; EPA-600/4-77-027b, revised Jan. 1982, Vol. III; and EPA-600/4-82-060, Feb. 1983, Vol. IV), or 40 CFR, Part 50 including appendices A through E, Part 53 including appendix A, and Part 58 including appendices A through G, at which time the latter two documents shall be adhered to for the specific exception.

(3) Same as existing rule.

(4) The board hereby adopts and incorporates by reference the Montana Quality Assurance Manual (~~Sept--1986-ed.~~)(March 1989 ed.) and the U.S. Environmental Protection Agency Quality Assurance Manual (EPA-600/9-76-005, revised Dec. 1984, Vol. I; EPA-600/4-77-027a, revised Jan. 1983, Vol. II; EPA-600/4-77-

027b, revised Jan. 1982, Vol. III; and EPA-600/4-82-060, Feb. 1983, Vol. IV) and 40 CFR Part 50 including Appendices A through E, Part 53 including Appendix A, and Part 58 including Appendices A through G, which are state and federal agency manuals and regulations setting forth sampling and data collection, recording, analysis and transmittal requirements. A copy of these materials may be obtained from the Air Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620.

AUTH: Sec. 75-2-111, MCA; IMP: Sec. 75-2-201, 75-2-202, MCA

16.8.809 METHODS AND DATA (1) Except as otherwise provided in this subchapter or unless written approval is obtained from the department for an exemption from a specific part of the Montana Quality Assurance Manual ~~{Sept--1986-ed-}~~ {March 1989 ed.}, all sampling and data collection, recording, analysis and transmittal, including but not limited to site selection, calibrations, precision and accuracy determinations must be performed as specified in the Montana Quality Assurance Manual ~~{Sept--1986-ed-}~~ {March 1989 ed.} except when more stringent requirements are contained in the U.S. Environmental Protection Agency Quality Assurance Manual (EPA-600/9-76-005, revised Dec. 1984, Vol. I; EPA-600/4-77-027a, revised Jan. 1983, Vol. II; EPA-600/4-77-027b, revised Jan. 1982, Vol. III; and EPA-600/4-82-060, Feb. 1983, Vol. IV) or 40 CFR, Part 50 including appendices A through E, Part 53 including appendix A, and Part 58 including appendices A through G. Any valid recorded value at any one monitoring device which exceeds the applicable ambient air quality standard shall constitute an exceedance at that monitoring location but not at any other monitoring location and permitted exceedances shall be applicable to each monitoring location. If a valid recorded value comprises in whole or in part an exceedance of an ambient air quality standard, such recorded value shall not comprise in whole or in part a second exceedance of the same ambient air quality standard.

(2) The board hereby adopts and incorporates by reference the Montana Quality Assurance Manual ~~{Sept--1986-ed-}~~ {March 1989 ed.} and the U.S. Environmental Protection Agency Quality Assurance Manual (EPA-600/9-76-005, revised Dec. 1984, Vol. I; EPA-600/4-77-027a, revised Jan. 1983, Vol. II; EPA-600/4-77-027b, revised Jan. 1982, Vol. III; and EPA-600/4-82-060, Feb. 1983, Vol. IV) and 40 CFR Part 50 including appendices A through E, Part 53 including appendix A, and Part 58 including appendices A through G, which are state and federal agency manuals and regulations setting forth sampling and data collection, recording, analysis and transmittal requirements. A copy of these materials may be obtained from the Air Quality Bureau, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620.

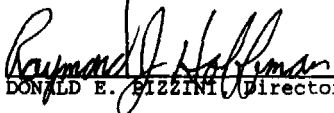
AUTH: Sec. 75-2-111, 75-2-202, MCA; IMP: Sec. 75-2-202, MCA

4. The Board's revisions are proposed pursuant to ARM 16.8.810, which requires periodic review and updating of the

Montana Quality Assurance Manual, a document that sets forth requirements, procedures, and guidelines for the collection, analysis, and reporting of air quality data in the state. In accordance with ARM 16.8.810(2), the department reviewed the manual, determined that changes were needed to ensure that state air quality data was of the highest possible quality, and solicited and considered comments from interested persons on the proposed revised manual prior to submitting it to the Board for incorporation into the above-noted rules.

5. Interested persons may submit their data, views, or arguments concerning the proposed amendments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Robert L. Solomon, Department of Health and Environmental Sciences, Cogswell Building, Capitol Station, Helena, Montana 59620, no later than November 10, 1989.

6. Robert L. Solomon, at the above address, has been designated to preside over and conduct the hearing.

For 
DONALD E. BIZZINI, Director

Certified to the Secretary of State August 21, 1989.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE ADOP-	)	NOTICE OF THE PROPOSED ADOP-
TION of Rule I, relating to	)	TION of Rule I, relating to
Bad Debt Credit - Special	)	Bad Debt Credit - Special
Fuel Dealers - Motor Fuels	)	Fuel Dealers - Motor Fuels
Tax.	)	Taxes.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On October 13, 1989, the Department proposes to adopt Rule I relating to Bad Debt Credit - Special Fuel Dealers-Motor Fuels Taxes.

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

RULE I SUPPORTING DOCUMENTATION FOR BAD DEBT CREDIT (1)
A claim for credit for taxes paid on accounts for which the special fuel dealer received no compensation must be accompanied by documents or copies of documents showing that the accounts were worthless and claimed as bad debts on the distributor's federal income tax return. Any further information pertaining to claim shall be furnished as required by the Department.

3. The authority for the Department to adopt this rule is found at 15-70-104, MCA and the implementing section is 15-70-328, MCA, as amended. Section 15-70-328, MCA, as amended provides that a special fuel dealer can claim a credit for taxes by declaring an account worthless as indicated for federal income tax purposes.

4. Interested parties may submit their data, views, or arguments concerning the proposed adoption in writing to:

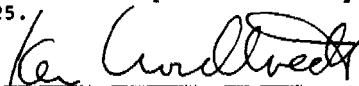
Cleo Anderson
Department of Revenue
Office of Legal Affairs
Mitchell Building
Helena, Montana 59620

no later than September 29, 1989.

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 Cleo Anderson at the above address no later than September 29, 1989.

6. If the agency receives requests for a public hearing on the proposed adoption from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed adoption; from the Administrative Code Committee of the Legislature; from a governmental subdivision, or agency; or from an association having no 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.


KEN NORDTVEDT, Director
Department of Revenue

Certified to Secretary of State August 21, 1989.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE ADOPTION)	NOTICE OF THE PROPOSED ADOP-
of Rule I relating to Pre-)	TION of Rule I relating to
Payment of Motor Fuel Taxes.)	Prepayment of Motor Fuel
)	Taxes.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On October 13, 1989, the Department proposes to adopt rule I relating to Prepayment of Motor Fuel Taxes.
2. The rule as proposed to be adopted provides as follows:

RULE I PREPAYMENT OF MOTOR FUEL TAXES (1) A licensed gasoline distributor may overpay its known motor fuel tax liability. The overpayment must be designated as such by the distributor. The credit balance created by the overpayment will be applied to future tax deficiencies. No penalty or interest will be imposed on future tax deficiencies to the extent the overpayment credit balance is sufficient to pay the deficiency. If the overpayment credit balance is not sufficient to cover the entire deficiency, penalty and interest will be assessed against the remaining deficiency. No interest will be accrued on the overpayment credit balance.

3. This rule is necessary to clarify the administration of the Montana Basic Gasoline License Tax, 15-70-201 through 15-70-223, MCA, and the penalty and interest provisions of 15-70-210, MCA.

4. The authority to adopt this rule is found at 15-70-104, MCA and the rule implements 15-70-210, MCA.

5. Interested parties may submit their data, views, or arguments concerning the proposed adoption in writing to:

Cleo Anderson
Department of Revenue
Office of Legal Affairs
Mitchell Building
Helena, Montana 59620

no later than September 29, 1989.

6. 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 Cleo Anderson at the above address no later than September 29, 1989.

7. If the agency receives requests for a public hearing on the proposed adoption from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed adoption; from the Administrative Code Committee of the Legislature; from a governmental subdivision, or agency; or from

an association having no 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.


KEN NORDTVEDT, Director
Department of Revenue

Certified to Secretary of State August 21, 1989.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMEND-	)	NOTICE OF PUBLIC HEARING on PROPOSED
MENT of ARM 42.15.117	)	AMENDMENT of ARM 42.15.117
relating to Capital Gain	)	relating to Capital Gain
Exclusion for Income Taxes.	)	Exclusion for Income Taxes.

TO: All Interested Persons:

1. On September 22, 1989, at 1:30 p.m., a public hearing will be held in the Fourth Floor Conference Room of the Mitchell Building, Helena, Montana, to consider the amendment of ARM 42.15.117 relating to Capital Gain Exclusion for Income Taxes.

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

42.15.117 CAPITAL GAIN EXCLUSION (1) through (3) remain the same.

(4) The deferred capital gain exclusion applies before only after the capital gain is netted against capital losses as put forth in Subchapter P of Chapter I of the Internal Revenue Code as of December 31, 1986.

~~{5}--When the taxpayer has both pre-1987 deferred and other gains, the prorated share of net capital gain that is eligible for the exclusion is the installment sale deferred capital gain divided by the total capital gain times the net capital gain. For example, when there is \$30,000 of deferred capital gain, \$70,000 of other capital gain and \$40,000 of capital losses the prorated share of the net capital gain is \$10,000--(\$30,000 divided by \$100,000 times \$60,000) }~~

~~{6} (5)~~ The deferred capital gain is the total amount of principal payments received in one year times the gross profit percentage. The gross profit percentage is the sales price less the seller's adjusted basis of the capital asset divided by the contract price of the installment sale.

~~{7} (6)~~ When married filing separate returns, the deferred capital gain exclusion may be divided equally when there is jointly owned property involved. Otherwise, the exclusion must be taken by the person who owned the property.

(7) The rule adopted September 25, 1987 applies to all taxable periods ending on or before December 31, 1988. This rule applies to tax years beginning after December 31, 1988.

3. Authority to amend this rule is found at 15-30-305 MCA, and implements 15-30-110, 15-30-111 and 15-30-131 MCA.

4. ARM 42.15.117 is proposed to be amended to reflect a different interpretation of the phrase "as capital gains are determined under subchapter P. of Chapter 1 of the Internal Revenue Code as it read on December 31, 1986" than is contained in the current rule. The current rule construes this phrase to require the netting of the capital gains on installment sales with any post-1986 capital losses before the 40% exclusion is applied. Under the revised interpretation the phrase is construed to apply to the methods used to calculate the capital gain on the installment sale. This eliminates the netting of

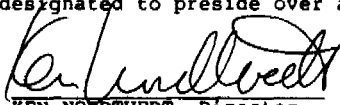
gains and losses, and results in the exclusion of the full 40% of the installment gain from taxation.

5. Interested parties may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to:

Cleo Anderson
Department of Revenue
Office of Legal Affairs
Mitchell Building
Helena, Montana 59620

no later than September 29, 1989.

6. R. Bruce McGinnis, Tax Counsel, Department of Revenue, Office of Legal Affairs, has been designated to preside over and conduct the hearing.



KEN NORDTVEDT, Director
Department of Revenue

Certified to Secretary of State August 21, 1989.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMENDMENT)	NOTICE OF PROPOSED AMENDMENT
of ARM 42.17.114 and 42.17.116)	of ARM 42.17.114 and 42.17.116
relating to W-2 Filing Dates)	relating to W-2 Filing Dates
for Withholding Taxes.)	for Withholding Taxes.

NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On October 13, 1989, the Department of Revenue proposes to amend ARM 42.17.114 and 42.17.116 relating to W-2 Filing Dates for Withholding Taxes.

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

42.17.114 ANNUAL RECONCILIATION STATEMENT (1) On or before February 15 28 of each year, the employer must file with the Department of Revenue, Helena, Montana, an annual reconciliation on Form MW-10. This form shows the total tax withheld from employees during the preceding year and must agree with the totals shown on the quarterly reports. Form MW-10 must be accompanied by the original copies of each employee's earnings statements, on federal form W-2.

(2) through (4) remain the same.

42.17.116 EMPLOYEE'S WITHHOLDING STATEMENT (1) Employee's earning statements, federal form W-2, must be prepared for each employee, regardless of whether or not tax was actually withheld from his wages. An original copy must be filed with the employer's annual reconciliation statement, and two copies must be furnished to the employee not later than February 15 January 31 of each year. Montana does not provide substitute earning statement forms or allow earning statements which do not conform to federal form W-2 requirements.

3. The Department's authority to amend these rules is found at 15-30-305, MCA. ARM 42.17.114 implements 15-30-207, MCA, and ARM 42.17.116 implements 15-30-206, MCA.

4. ARM 42.17.114 and 42.17.116 are proposed to be amended because the 1989 Legislature enacted legislation changing the state W-2 filing due dates to match the federal due dates. The Administrative Rules must be amended to reflect the changes.

In addition, the number of the publication outlining the requirements for magnetic media filing is now TIB-4 (not TIB-4a) necessitating a minor rule change.

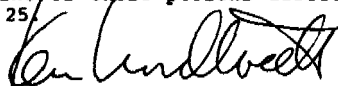
5. Interested parties may submit their data, views, or arguments concerning the proposed adoption in writing to:

Cleo Anderson
Department of Revenue
Office of Legal Affairs
Mitchell Building
Helena, Montana 59620

no later than September 29, 1989.

6. If a person who is directly affected by the proposed amendments 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 Cleo Anderson at the above address no later than September 29, 1989.

7. If the agency receives requests for a public hearing on the proposed amendments from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed adoption; from the Administrative Code Committee of the Legislature; from a governmental subdivision, or agency; or from an association having no 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.


REN NORDTVEDT, Director
Department of Revenue

Certified to Secretary of State August 21, 1989.

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

In the matter of the amend-	)	NOTICE OF PUBLIC HEARING IN
ment of Rules 46.12.545,	)	THE MATTER OF THE PROPOSED
46.12.546 and 46.12.547	)	AMENDMENT OF RULES
pertaining to occupational	)	46.12.545, 46.12.546 AND
therapy services	)	46.12.547 PERTAINING TO
	)	OCCUPATIONAL THERAPY
	)	SERVICES

TO: All Interested Persons

1. On September 21, 1989, 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 proposed amendment of Rules 46.12.545, 46.12.546 and 46.12.547 pertaining to occupational therapy services.

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

46.12.545 OUTPATIENT OCCUPATIONAL THERAPY SERVICES, DEFINITION (1)--Occupational--therapy--means--medically directed--treatment--of--physically--and/or--mentally--disabled individuals--by--means--of--constructive--activities--designed--and adapted--by--a--qualified--occupational--therapist--to--promote--the restoration--of--useful--function.

(1) "Occupational therapy" means the use of purposeful activity with an individual who is limited by physical injury or illness, psychosocial dysfunction, developmental or learning disability, or the aging process in order to maximize independence, prevent disability, and maintain health.

(a) The practice encompasses evaluation, treatment, consultation, administration and interpretation of tests and instruction and supervision of supportive personnel. Occupational therapy encompasses designing, fabricating or applying splints or selective adaptive equipment and training in the use of upper extremity prosthetic or upper extremity orthotic devices, and developing perceptual-motor skills and sensory integrative functioning.

(b) Occupational therapy also includes teaching daily living skills, developing prevocational and avocational skills and capacities, and adapting environments for the handicapped.

(c) Occupational therapy are those services provided other than by a hospital or home health agency.

(2)--Qualified--occupational--therapist--is--one--who--is registered--by--the--American--occupational--therapy--association--or is--a--graduate--of--a--program--in--occupational--therapy--approved--by the--council--on--medical--education--of--the--American--medical association--and--is--engaged--in--the--required--supplemental

clinical experience prerequisite to registration by the American occupational therapy association.

(2) "Restorative therapy" means occupational therapy services that are reasonable and medically necessary to the treatment of the individual's illness as provided in ARM 46.12.546.

(3) "Maintenance therapy" means repetitive services required to maintain functions which do not involve complex and sophisticated occupational therapy procedures, or the judgment and skill of a qualified occupational therapist and without the expectation of significant progress.

(4) "Maintenance plan" means the initial evaluation, design and instruction of a plan of care by a licensed occupational therapist appropriate to the objectives of a physician and the capacity of a patient.

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-101 and 53-6-141 MCA

46.12.546 OUTPATIENT OCCUPATIONAL THERAPY SERVICES, REQUIREMENTS (1) These requirements are in addition to those contained in ARM 46.12.301 through 46.12.308.

(1)--Outpatient occupational therapy service is limited to a maximum of 200 visits per fiscal year.

(2)--All occupational therapy services must be physician referred.

(3)--All occupational therapy services must be reviewed and renewed by the referring physician at a minimum of 90-day intervals except occupational therapy provided to nursing home residents must be reviewed by the attending physician every 90 days.

(4)--Written physicians' orders and occupational therapy reports must be current and available upon request of the department or its designated representative.

(5)--Outpatient occupational therapy services will be subject to review by the designated review organization.

(6)--Occupational therapy services provided through a home health care agency shall be part of the agency's 200 visit limitation.

(2) Only restorative therapy which is reasonable and necessary to the treatment of the recipient's illness or injury will be reimbursed by the Montana Medicaid program.

(3) "Reasonable and necessary" means:

(a) The services must be considered under accepted standards of occupational therapy practice to be a specific and effective treatment for the patient's condition;

(b) Therapy services must be of such a level of complexity and sophistication or the recipient's condition is such that the services required can be safely and effectively performed only by a licensed occupational therapist or by a

certified occupational therapy assistant (COTA) under his supervision;

(i) At a minimum, supervision must include: initial direction, an on site supervisory visit for every four COTA visits, and weekly direct supervisory contact including case note review.

(c) There must be either:

(i) an expectation that the recipient's condition will improve significantly in a reasonable and predictable period of time based on the assessment made by a physician of the patient's restoration potential after any needed consultation with the licensed occupational therapist; or

(ii) the services must be necessary to the establishment of a safe and effective maintenance program required in connection with a specific disease.

(A) If an individual's expected restoration potential would be insignificant in relation to the extent and duration of occupational therapy services required, the occupational therapy would not be considered reasonable and necessary.

(B) If at any point in the treatment of an illness it is determined that the expectations will not materialize, the services will no longer be considered reasonable and necessary and will not be reimbursed.

(d) The amount and frequency of the services must be within the recognized standards of occupational therapy practices as determined by the American Occupational Therapy Association.

(4) Services which do not require the performance or supervision of a licensed occupational therapist are not considered reasonable and necessary even if these services are performed by an occupational therapist.

(5) The establishment of a maintenance plan is reimbursable under the program.

(a) Establishment of a maintenance program by a licensed occupational therapist includes the initial evaluation of the patient's needs, a plan designed to be appropriate to the capacity and tolerance of the patient and which incorporates the treatment objectives of the physician, the instruction of others in carrying out the program and occupational therapy evaluations as required.

(b) Maintenance therapy is not reimbursable under the Montana medicaid program.

(6) All occupational therapy services must be provided by, or under the supervision of, a licensed occupational therapist as set forth in subsection (3)(b) of this rule.

(a) Students and aides must be under direct supervision.

(7) Occupational therapy service is limited per fiscal year to 70 hours without prior authorization and an additional 30 hours with prior authorization by the department. A maximum of 100 hours per fiscal year is allowed.

(8) All occupational therapy must be prescribed by a physician.

(a) Prescriptions must be obtained before occupational therapy is provided.

(b) Prescriptions for occupational therapy are only valid for 90 days.

(c) Written physicians' prescriptions and occupational therapy reports must be current and available upon request of the department or its designated representative.

(9) Occupational therapy will be subject to review by the designated review organization.

(10) The design, fabrication, fitting and instruction in the use of dynamic and static splints, braces and slings is reimbursable as set forth in ARM 46.12.801 through 46.12.806.

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-101 and 53-6-141 MCA

46.12.547 OUTPATIENT OCCUPATIONAL THERAPY SERVICES, REIMBURSEMENT (1) The department will pay the lowest of the following for occupational therapy services not also covered by medicare:

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

(b) the department's fee schedule contained in this rule.

(2) The department will pay the lowest of the following for occupational therapy services which are also covered by medicare:

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

(b) the amount allowable for the same service under medicare; or

(c) the department's fee schedule contained in this rule.

(3) Outpatient occupational therapy fee schedule:
Ar-Dr-Ev-----19.97
Occupational-Therapy-Evaluation-----33.28
Home-Instruction-----33.28
One-Modality-----13.31
Two-Modalities-----14.64
Three-Modalities-----19.97
Four-Modalities-----19.97
Five-Modalities-----23.96

(3) Occupational therapy fee schedule:

EVALUATION AND INSTRUCTION

H5240 Occupational therapy evaluation
Each 15 minute unit
(maximum 4 units)..... 8.32

Z9210 Home instruction including design
 of maintenance plans
 Each 15 minute unit
 (maximum 4 units).... 8.32

ACTIVITIES OF DAILY LIVING (ADL)

(Physical & Psychological)

Z9217 Each 15 minute unit..... 7.50

MODALITIES

Modality is the employment, or method of employment, of a
therapeutic agent (used in conjunction with occupational thera-
py procedures)

H5300 Modalities, initial 15 minutes 13.31
Z9216 Each additional 15 minutes 3.00

PROCEDURES

Each 15 minute unit 7.50

Z9211 Prosthetic training (upper extremity only)
Z9212 Orthotics training (dynamic bracing, splinting)

Neuromuscular

Z9218 Reflex integration
Z9219 Range of motion
Z9220 Gross and fine coordination
Z9221 Strength and endurance

Cognitive Integration

Z9213 Orientation to environment
Z9214 Conceptualization/comprehension
Z9215 Cognitive integration

Sensory Integration


Z9222 Sensory awareness
Z9223 Visual spatial awareness
Z9224 Body integration

AUTH: Sec. 53-6-113 MCA
TMP: Sec. 53-6-101 and 53-6-141 MCA

3. These rules which are being revised to make the benefits, limitations and reimbursement policies consistent with speech therapy and physical therapy services. All proposed changes were developed through negotiations with an ad hoc committee of the Montana Occupational Therapy Association. No financial impact is anticipated as the most recent ad hoc study of client usage of occupational therapy services for FY 88 indicates that all recipients received less than 100 hours.

4. Interested parties may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, Montana 59604-4210, or telefaxed to 444-1970, no later than September 28, 1989.

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



Director, Social and Rehabilitation Services

Certified to the Secretary of State August 14, 1989.

BEFORE THE TEACHERS' RETIREMENT BOARD
OF THE STATE OF MONTANA

In the matter of the adoption)	NOTICE OF THE ADOPTION
of new rules relating to laws)	AND AMENDMENT OF RULES
adopted by the 51st legislature)	RELATING TO THE
2.44.306, 2.44.307, 2.44.409,)	TEACHERS' RETIREMENT
2.44.410, 2.44.411, 2.44.518,)	SYSTEM
2.44.519 and amendment of Rules)	
2.44.402, 2.44.506, 2.44.507,)	
2.44.514 and 2.44.515 relating)	
to the calculation, transfer)	
and correction of service and)	
the calculation, adjustment and)	
payment of benefits.)	

TO: All Interested Persons.

1. On June 29, 1989, the Teachers' Retirement Board published, at pages 800 through 806 of issue no. 12 of the Montana Administrative Register, notice of proposed adoption of rules, 2.44.306 (IV); 2.44.307 (VII); 2.44.409 (I); 2.44.410 (V); 2.44.411 (VI); 2.44.518 (II); 2.44.519 (III) and amendment of existing rules: 2.44.402; 2.44.506; 2.44.507; 2.44.514; 2.44.515. Pursuant to that notice on July 20, 1989 a public hearing was held at the Teachers' Retirement System offices, 1500 Sixth Avenue, Helena, MT.

2. The Teachers' Retirement Board has adopted and amended the rules as proposed except for rule 2.44.402 which was noticed striking the phrase "service in the Korean Conflict from June, 1950 through January, 1955". It was not the intent of the Board to strike this phrase and it shall remain:

2.44.402 CREDIT FOR MILITARY SERVICE (1) For those eligible, military credit will be given for active service in World War II from October 1940 through June 1947, service in the Korean Conflict from June, 1950 through January, 1955 and for any period of active service allowed under 19-4-404, MCA.

(2) through (4) amended as proposed.

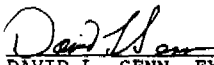
3. COMMENT: An attorney for the legislative council observed that proposed rule VII (2.44.307) did not state why it was being adopted.

RESPONSE: Rule VII (2.44.307) is proposed at the request of the members of the system and to prevent adverse selections against the retirement system.

COMMENT: Written correspondence was received from Jesse W. Long, Executive Secretary, School Administrators of Montana. Concern was expressed that proposed rule II, (2.44.518), did not adequately address promotions of classroom teachers to administrative positions. It was also asked whether or not exceptions would be granted to principals or superintendents.

RESPONSE: Promotion of a teacher to an administrative position is not in itself isolated or one time when it is made and it can be exempted from the 10% cap. Principals and superintendents could also be granted exemptions since the rules provide exemption of increases in excess of 10% for any system member when increases are granted to all similarly situated employees.

No other comments or testimony were received.

By: 
DAVID L. SENN, EXECUTIVE SECRETARY
TEACHERS' RETIREMENT SYSTEM

Certified to the secretary of state August 21, 1989

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment	)	NOTICE OF AMENDMENT
of rule 4.15.101 Fees, and	)	OF ARM 4.15.101 FEES,
adoption of ARM 4.15.201	)	AND ADOPTION OF NEW
pertaining to agricultural debt	)	RULE ARM 4.15.201 ON
mediation scheduling and agree-	)	AGRICULTURAL DEBT
ment procedures.	)	MEDIATION

TO: All Interested Persons

1. On June 29, 1989, the Department of Agriculture published notice of the proposed amendment of rule 4.15.101 pertaining to fees, and adoption of a new rule on page 807 of the Montana Administrative Register, issue number 12.

2. The Department has adopted and amended the rules as proposed. The new rule is assigned rule no. ARM 4.15.201.

3. No written comments or testimony were received.



E. M. Snortland, Director
Department of Agriculture

Certified to the Secretary of State August 21, 1989.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE BOARD OF LANDSCAPE ARCHITECTS

In the matter of the amendment	)	NOTICE OF AMENDMENT OF 8.
of rules pertaining to appli-	)	24.403 - 8.24.405; 8.24.
cations, seals, examinations,	)	407; 8.24.410; 8.24.411;
reciprocity, suspensions and	)	AND ADOPTION OF NEW RULE
revocations, complaint process	)	I. (8.24.413)
and the adoption of a new rule)	
pertaining to disciplinary)	
actions - fines)	

TO: All Interested Persons:


1. On June 15, 1989, the Board of Landscape Architects published a notice of proposed amendment and adoption of the above-stated rules at page 698, 1989 MAR, issue number 11.

2. The Board has amended and adopted the rules exactly as proposed.

3. No comments or testimony were received.

BOARD OF LANDSCAPE ARCHITECTS
VALERIE TOOLEY, CHAIRPERSON

BY:


MICHAEL L. LETSON, DIRECTOR
DEPARTMENT OF COMMERCE

Certified to the Secretary of State, August 21, 1989.

STATE OF MONTANA
DEPARTMENT OF COMMERCE
BEFORE THE FINANCIAL DIVISION

In the matter of the amendment) NOTICE OF AMENDMENT OF 8.
of a rule pertaining to direct) 80.102 BANKS - DIRECT
leasing) LEASING OF PERSONAL
) PROPERTY

TO: All Interested Persons:

1. On April 27, 1989, the Financial Division published a notice of proposed amendment of the above-stated rule at page 470, 1989 Montana Administrative Register, issue number 8.

2. The Division amended the rule exactly as proposed.

3. No comments or testimony were received.

FINANCIAL DIVISION
FRED FLANDERS, ADMINISTRATOR

BY: Michael L. Letson
MICHAEL L. LETSON, DIRECTOR
DEPARTMENT OF COMMERCE

Certified to the Secretary of State August 21, 1989.

BEFORE THE FISH AND GAME COMMISSION
OF THE STATE OF MONTANA

In the matter of the) NOTICE OF AMENDMENT OF
amendment of ARM 12.6.903) ARM 12.6.903 PERTAINING
TO HELENA VALLEY EQUALIZING
REGULATIONS

TO: All interested persons

1. On May 11, 1989, the Montana Fish and Game Commission published notice of the proposed amendment of ARM 12.6.903 relating to Helena Valley Equalizing Regulations at page 506 of the 1989 Montana Administrative Register, issue number 9.

2. Written and oral comments were received at a public hearing on June 1, 1989. Other written comments were received through June 8, 1989.

3. This amendment was reviewed and approved by the Department of Health on June 5, 1989, as required by Section 87-1-303, MCA.

4. A report summarizing the public comment was prepared and submitted to the Commission and Department.

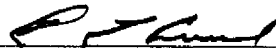
5. The Department recommended to the Commission that the proposed amendment be adopted.

6. After considering the public comment and the Department's recommendation the rule has been amended as proposed.

7. The Commission responds to the comments opposing the adoption as follows:

COMMENT: The only opposition to the amendment came from the Helena Valley Irrigation District. The District expressed concern that signs near the outlets would not be sufficient safeguard to keep windsurfers away from the outlet area.

RESPONSE: The outlets do not present more danger to windsurfers than other user groups. In fact, prevailing winds will tend to blow windsurfers away from the outlets so that windsurfers are less likely to approach the outlets than other users such as kayakers. Consequently, the Commission does not believe it can reasonably exclude windsurfers from the reservoir because of the outlets when other uses are allowed. In any event, the outlet area will be closed and warnings posted. The Commission has no reason to suspect that windsurfers will ignore the regulations, signs, and warnings more than other user groups.


K.L. Cool, Secretary
Montana Fish and Game
Commission

Certified to the Secretary of State August 21, 1989.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA


IN THE MATTER OF THE ADOPTION)	NOTICE OF THE ADOPTION of
of Rule I (ARM 42.27.117))	Rule I (ARM 42.27.117)
relating to Bad Debt Credit)	relating to Bad Debt Credit
- Motor Fuels Taxes.)	- Motor Fuels Taxes.

TO: All Interested Persons:

1. On June 29, 1989, the Department of Revenue published notice of the proposed adoption of Rule I (ARM 42.27.117) relating to Bad Debt Credit - Motor Fuels Taxes at page 831 of the 1989 Montana Administrative Register, issue no. 12.

2. No written comments were received. However, for clarification purposes the Department is amending the Catchphrase to the rule to read as follows:

42.27.117 DISTRIBUTOR - SUPPORTING DOCUMENTATION FOR BAD
DEBT CREDIT (1) remains as proposed.


KEN NORDTVEDT, Director
Department of Revenue

Certified to Secretary of State August 21, 1989.

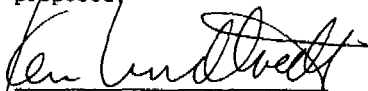
BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMENDMENT)	NOTICE OF THE AMENDMENT of
of ARM 42.27.301 relating to)	ARM 42.27.301 relating to
Gasoline Seller's License for)	Gasoline Seller's License
Motor Fuels.)	for Motor Fuels.

TO: All Interested Persons:

1. On June 15, 1989, the Department of Revenue published notice of the proposed amendment of ARM 42.27.301 relating to Gasoline Seller's License at page 747 of the 1989 Montana Administrative Register, issue no. 11.

2. No written comments were received. Therefore, the Department amends ARM 42.27.301 as proposed.


KEN NORDTVEDT, Director
Department of Revenue

Certified to Secretary of State August 21, 1989.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

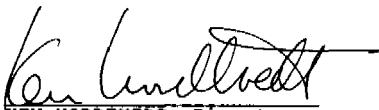
IN THE MATTER OF THE ADOPTION)	NOTICE OF THE ADOPTION of
of Rule I (ARM 42.28.407))	Rule I (ARM 42.28.407)
Keylock or Cardtrol Statements.)	Keylock or Cardtrol State-
)	ments.

TO: All Interested Persons:

1. On June 15, 1989, the Department of Revenue published notice of the proposed adoption of Rule I (ARM 42.28.407) relating to Keylock or Cardtrol Statements at page 745 of the 1989 Montana Administrative Register, issue no. 11.

2. One written comment was received from Chevron U.S.A. Inc. indicating they would prefer we delete the reference to "last working day of the calendar month" and insert "at least every 30 days." The Department is in agreement with this change. Therefore the rule as proposed is amended as follows:

RULE I (42.28.407) STATEMENT FOR KEYLOCK CARDTROL REPORTING (1) Any seller who sells gasoline to a purchaser through a keylock or cardtrol on which a refund may be claimed in accordance with 15-70-223, MCA, shall provide the purchaser with a statement of fuel purchased. The statement may be prepared as frequently as deemed necessary, but one statement must be issued on the last working day of the calendar month at least every 30 days. To support the accuracy of the statement, the seller shall list or attach a list supporting all information used in the statement.


KEN NORDTVEDT, Director
Department of Revenue

Certified to Secretary of State August 21, 1989.

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

In the matter of the	)	NOTICE OF THE AMENDMENT OF
amendment of Rules	)	RULES 46.12.550, 46.12.551
46.12.550, 46.12.551 and	)	and 46.12.552 PERTAINING TO
46.12.552 pertaining to home	)	HOME HEALTH SERVICES
health services)	

TO: All Interested Persons

1. On May 25, 1989, the Department of Social and Rehabilitation Services published notice of the proposed amendment of Rules 46.12.550, 46.12.551 and 46.12.552 pertaining to home health services at page 654 of the 1989 Montana Administrative Register, issue number 10.

2. The Department has amended the following rules as proposed with the following changes:

46.12.550 HOME HEALTH SERVICES, DEFINITION Subsec-
tion (1) remains as proposed.

(a) skilled short-term nursing services;

~~(ab) skilled maintenance nursing services;~~

~~(bcb) home health aide services;~~

~~(edc) physical therapy services;~~

~~(ded) occupational therapy services;~~

~~(efe) speech therapy services; and~~

~~(fgf) medical supplies and equipment suitable for use in the home.~~

~~(2) Skilled short-term nursing services means nursing services provided on a part time basis to meet the medical needs of persons who need nursing procedures for a short time in order to PREVENT INSTITUTIONALIZATION recover from a serious medical illness or procedure. A medical condition for which skilled short-term nursing services may be provided must be reasonably expected to change or improve to the point that nursing services will not be necessary for more than 60 days.~~

~~(3) Skilled maintenance nursing services means nursing services provided to meet a chronic medical condition. Maintenance nursing services are limited to those services reasonably necessary to prevent institutionalization. A medical condition for which skilled maintenance nursing services may be provided must be reasonably expected to be more than 60 days in duration.~~

~~(43) Home health aide services means assistance in the activities of daily living and the care of the household provided on a short-term basis that is necessary to maintain the person in their home. Home health aide services may only be provided when there is a reasonable expectation that the recipient's medical condition will improve so that services will no longer be required after 60 days.~~

~~(a)--Home health aide services must be provided under the supervision of a registered professional nurse and in accordance with a written plan of treatment established by a physician.~~

~~(b)--Home health aide services and personal care attendant (pca) services (AMM 46.12.555 et. seq.) may not be provided to a person simultaneously. When it is anticipated that the recipient's medical condition will require personal care services for a period of greater than 60 days, the personal care attendant program must be utilized.~~

Original subsections (1)(f)(i) and (1)(f)(i)(A) remain deleted as proposed.

Subsections (5) and (5)(a) remain as proposed in text but will be recategorized as (4) and (4)(a).

(ii65) Place of residence includes a person's own home, a personal care facility, a foster home, a community home for the persons who are developmentally disabled or physically disabled, a rooming house or a retirement home. Place of residence does not include a hospital, skilled or a nursing facility or intermediate care facility except that home health services may be provided in an intermediate care facility if those services are not required to be provided by the facility.

(76) A home health service unit or visit is a personal contact in the place of residence of a recipient made for the purpose of providing a covered home health service.

~~(iii8)--Nursing services may be provided by contract with a licensed registered nurse in geographic areas not covered by a licensed home health agency.~~

~~(99)--A visit made by a registered nurse for the purpose of evaluating the home health needs of the recipient or to review the provision of such services by the nurse aide or licensed practical nurse is considered to be an administrative function and is not billable as a nursing visit.~~

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-101, 53-6-131 and 53-6-141 MCA

46.12.551 HOME HEALTH SERVICES, REQUIREMENTS

Subsections (1) through (1)(f) remain as proposed.

(g) Home health services, except skilled maintenance nursing services, are limited to a combined maximum of 200 visits per recipient per fiscal year. Skilled maintenance nursing services are limited to 365 visits per recipient per fiscal year.

~~(h) When a recipient who has been receiving skilled maintenance nursing services develops a need for skilled short-term nursing services and these services are provided on the same day, the skilled maintenance service must be included in the skilled short-term nursing service.~~ SKILLED NURSING SERVICES MAY BE PROVIDED BY CONTRACT WITH A LICENSED

REGISTERED NURSE IN GEOGRAPHIC AREAS NOT COVERED BY A LICENSED HOME HEALTH AGENCY.

(i) LIMITATIONS UPON HOME HEALTH AIDE SERVICES:

(i) HOME HEALTH AIDE SERVICES MUST BE PRIOR AUTHORIZED IF THEY EXCEED 12 VISITS PER RECIPIENT IN THE STATE FISCAL YEAR.

(ii) HOME HEALTH AIDE SERVICES MUST BE PROVIDED UNDER THE SUPERVISION OF A REGISTERED PROFESSIONAL NURSE AND IN ACCORDANCE WITH A WRITTEN PLAN OF TREATMENT ESTABLISHED BY A PHYSICIAN.

(iii) A PERSON RECEIVING PERSONAL CARE ATTENDANT SERVICES MAY NOT RECEIVE HOME HEALTH AIDE SERVICES.

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-101, 53-6-131 and 53-6-141 MCA

46.12.552 HOME HEALTH SERVICES, REIMBURSEMENT

Subsections (1) through (1)(a) remain as proposed.

~~(b)--payment-for-home-health-services-which-are-medical supplies-and-equipment-and-which-are-provided-in-intermediate care-facilities-as-allowed-in-ARM-46-12-550-(2)-may-not-exceed the-requirements-of-ARM-46-12-805.~~

~~(c)--payment-for-home-health-services-which-are-skilled maintenance-nursing-services-may-not-exceed-\$20.00-per-visit.~~

Subsections (2) through (3)(c) remain as proposed.

(i) The averaged medicaid fee will be derived by combining the total charges COSTS DERIVED FROM THOSE MEDICAID COST SETTLEMENTS FINALIZED BEFORE JUNE 30, 1984, within each category of service from all participating in-state home health providers and dividing that sum by the total number of delivered services. The final sum will be indexed by an inflation factor for 1984, 1985 and 1986 plus two percent (2%) to become the averaged fee FOR THE CURRENT YEAR.

Subsections (4) through (6) remain as proposed.

~~(7) These-rules-take-precedence-over-any-other-home health-service-reimbursement-rules-found-in-this-title.~~ A VISIT MADE BY A REGISTERED NURSE FOR THE PURPOSE OF EVALUATING THE HOME HEALTH NEEDS OF A RECIPIENT OR TO REVIEW THE PROVISION OF SUCH SERVICES BY THE NURSE AIDE OR LICENSED PRACTICAL NURSE IS CONSIDERED TO BE AN ADMINISTRATIVE FUNCTION AND IS NOT BILLABLE AS A HOME HEALTH SERVICE VISIT.

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-101, 53-6-131 and 53-6-141 MCA

4. The Department has thoroughly considered all commentary received:

COMMENT: There is no basis in medicaid authority nor any rationale to support the proposed split of skilled nursing into short term and maintenance services.

RESPONSE: The department concurs. The terms "skilled maintenance and short-term nursing services" have been deleted and all nursing services in this rule, short term and maintenance, shall be defined as "skilled nursing services."

COMMENT: Chronic maintenance visits should be reimbursed at the same rate as skilled short term visits since we still need to do all the accompanying documentation and we still pay the home health staff the same rate. It is unreasonable to expect anyone to provide skilled nursing service at \$20.00 per visit.

RESPONSE: The rate of \$20.00 per visit for skilled maintenance nursing has been deleted. All skilled nursing visits will be paid in accordance with ARM 46.12.552. A separate limit for skilled nursing services has been included at 365 visits per recipient per fiscal year.

COMMENT: Why is the department treating home health aide and personal care attendant services as similar services? Our agency provides both types of services. We believe that home health aides and personal care attendants are clearly distinguishable.

RESPONSE: The department partially concurs. The requirement that a personal care attendant be used for services provided for a period of greater than 60 days has been deleted. However, home health aide services which exceed 12 visits per recipient in the state fiscal year must be prior authorized by the department. Federal definitions relating to personal care attendant and home health aide services are similar.

COMMENT: One person may receive services from both the state's personal care attendant contractor and from a home health agency. This creates problems of administration and coordination and increases costs of care. SRS should require the personal care contractor to have formal referral arrangements with home health agencies in order to refer patients whose change in condition indicated the need for nursing and therapy services in addition to personal care.

RESPONSE: The department does not agree that formalized referral agreements are necessary between the PCA program and the home health providers nor does it feel that the coordination of these two services is an undue administrative burden. Each program retains responsibility for its employees and their ability to perform their job. Traditionally these two services have been provided in conjunction with a variety of

other service providers and this combination of providers has worked well together. The department would encourage these providers to establish effective lines of communication but does not feel that these lines need to be mandated by the state. PCA services and home health services (except home health aide services) may be provided simultaneously.

COMMENT: In implementing the provider rate freeze mandated by the 1986 special session of the legislature January 1, 1987, SRS staff estimated 1986 costs by inflating 1984 costs forward. This process was recently reviewed as 1986 data revealed that reimbursement was set \$75,000 lower than what a frozen rate should have been. Because only \$351,420 was spent on home health care, this rate freeze turned out to actually be an 18% rate reduction. This was clearly not the intent of the legislature. SRS should make a technical correction to the freeze methodology and base rate and apply the 2% rate increase as contemplated by the legislature. We recognize this does not rebase the system, nor produce rates equal to current costs. It would, however, correct a prior error and bring the program into compliance with legislative intent since 1986.

RESPONSE: The department partially concurs. We feel that the legislature intended that the 2% increase was to be a 2% increase of the previous state fiscal year's operation. The department therefore, increased the rates used by the home health program during state fiscal year 1989 by 2%. However, the department would propose to review this issue by establishing a committee consisting of representatives of the department and the provider group to study this issue. Recommendations would then be made to correct any deficiencies found in the system.

COMMENT: Are you planning to add money to rates for OBRA aide training costs? Funds were given to the state for OBRA; were they all given to nursing homes?

RESPONSE: All training funds were allocated to nursing homes. Home health agencies did not receive OBRA training funds.

COMMENT: The department should remove language which limits home health services to 200 visits per year, and "maintenance" services to 365 visits per year. Very few, if any, patients come anywhere near the 200 visit limit. Those that do simply turn to other Medicaid providers for services which defeats the purpose of the limit.

RESPONSE: The 200 visit limit was approved by the federal government in the State Plan and was not found to be arbitrary. The 365 visit limit for skilled nursing services was set as a means of utilization control during this first year so that

the department might further evaluate the nursing needs of recipients. The department feels that this limit was needed due to the broadening of the homebound definition and the elimination of nursing from the personal care attendant program.

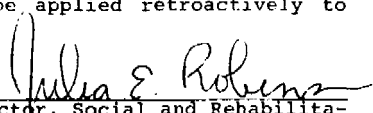
COMMENT: SRS should not exclude a nursing facility as an allowed place of service for certain home health services. Home health agencies currently provide some therapies to nursing home residents. The nursing facilities will have to use or hire providers of therapy. This method is currently practiced by some agencies and represents an increased administrative burden necessary to serve nursing home residents.

RESPONSE: The department does not concur. Recipients requiring therapy services in almost all instances would require skilled nursing care. Therapy services must be provided by the facility in those instances. The department does not feel that the home health agency is the proper provider of such care. The department does not anticipate a proliferation of independent providers of therapy as all but ten nursing facilities had already obtained skilled bed certification by February, 1989. The remaining skilled facilities, should already have agreements in place.

COMMENT: Some of the proposed changes in definitions should be placed in the requirements and reimbursement provisions.

RESPONSE: The department has reviewed the rule and made several changes for clarification.

5. This rule change will be applied retroactively to July 1, 1989.


Director, Social and Rehabilitation Services

Certified to the Secretary of State August 21, 1989.

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 bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt or amend 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 the existing or proposed rules. The address is Room 138, Montana 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 looseleaf 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 statutes 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 ARM topical index.
Update the rule by checking the
accumulative table and the table of
contents in the last Montana Administrative
Register issued. |
| Statute
Number and
Department | 2. Go to cross reference table at end of each
title which list MCA section numbers and
corresponding ARM rule numbers. |

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 Procedure Act for inclusion in the ARM. The ARM is updated through June 30, 1989. This table includes those rules adopted during the period July 1, 1989 through September 30, 1989 and any proposed rule action that is pending during the past 6 month period. (A notice of adoption must be published within 6 months of the published notice of the proposed rule.) This table does not, however, include the contents of this issue of the Montana Administrative Register (MAR).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through June 30, 1989, this table and the table of contents of this issue of the MAR.

This table indicates the department name, title number, rule numbers in ascending order, catchphrase or the subject matter of the rule and the page number at which the action is published in the 1989 Montana Administrative Register.

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