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OF MONTANA

MONTANA ADMINISTRATIVE REGISTER

**DOES NOT
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MAY 01 1992

The Montana Administrative Register (MAR), a three-monthly publication, has three sections. The notice section contains state agencies' proposed new, amended or revised 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 DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the pro-)	NOTICE OF PUBLIC HEARING ON
posed amendment of ARM	)	THE PROPOSED AMENDMENT OF
2.21.908 relating to dis-	)	ARM 2.21.908 RELATING TO
ability and maternity	)	DISABILITY AND MATERNITY
leave, the proposed amend-	)	LEAVE, THE PROPOSED AMEND-
ment of ARM 2.21.122 and	)	MENT OF ARM 2.21.122 AND
2.21.132 relating to sick	)	2.21.132 RELATING TO SICK
leave, and the proposed	)	LEAVE, AND ON THE PROPOSED
adoption of rules relating	)	ADOPTION OF RULES RELATING
to parental leave for state	)	TO PARENTAL LEAVE
employees.)	

TO: All Interested Persons.

1. On May 21, 1992, at 9:00 a.m. in Room 136 Mitchell Building, Helena, Montana, a public hearing will be held to consider the amendment of ARM 2.21.908 relating to disability and maternity leave, the amendment of ARM 2.21.122 and 2.21.132 relating to sick leave, and to consider the adoption of rules relating to parental leave for state employees.

2. The proposed amendment relating to disability and maternity leave are as follows:

2.21.908 MATERNITY LEAVE (1) - (6) Remain the same.

(7) A permanent employee who is adopting a child or who is a birth father may request parental leave immediately following the child's birth or placement for adoption as provided in the parental leave policy, Rules I through V. An employee may request the use of annual additional leave, leave without pay, compensatory time or other appropriate paid leave for purposes such as adoption or childcare. leave shall be requested by the employee and approved or disapproved by the agency consistent with rules and agency policy applicable to the type of leave requested.

(Auth. 2-18-604, MCA; Imp. 2-18-601, 2-18-606, MCA.)

3. The proposed amendments relating to sick leave are as follows:

2.21.122 DEFINITIONS (1) - (6) Remain the same.

(7) "Sick leave" means, as provided in 2-18-601, MCA, "a leave of absence with pay for a sickness suffered by an employee or his immediate family or for a permanent state employee who is eligible for parental leave under the provisions of 2-18-601, MCA."

(8) - (9) Remain the same.

(Auth. 2-18-604, MCA; Imp. 2-18-601, 2-18-606, MCA.)

2.21.132 CONDITIONS FOR USE OF SICK LEAVE (1) An employee may use sick leave credits for:

(a) - (d) Remain the same.

(e) parental leave as provided in Rules I through IV;

(e) - (h) Remain the same and relettered (f) - (i).

(Auth. 2-18-604, MCA; Imp. 2-18-601, 2-18-606, MCA.)

4. The proposed new rules relating to parental leave are as follows:

RULE I SHORT TITLE (1) This sub-chapter may be cited as the parental leave policy.

(Auth. 2-18-604, MCA; Imp. 2-18-601, 2-18-606, MCA.)

RULE II POLICY AND OBJECTIVES (1) It is the policy of the state of Montana to grant parental leave in accordance with 2-18-606, MCA, immediately following a child's birth or placement for adoption when the employee is the birth father or adopting the child.

(2) Additional paid leave is not created by 2-18-606, MCA, for use as parental leave. An employee must be otherwise eligible to use paid leave in order to use it for parental leave. Use of sick leave is permitted as parental leave. Annual leave, compensatory time and leave without pay also may be used.

(3) Parental leave is available only to a permanent employee, as defined in 2-18-601, MCA.

(4) Each request will be judged by the agency in accordance with this policy.

(5) The objective of this policy is to establish minimum standards for the administration of parental leave.

(Auth. 2-18-604, MCA; Imp. 2-18-601, 2-18-606, MCA.)

RULE III DEFINITIONS As used in this sub-chapter, the following definitions apply:

(1) "Birth father" means the individual identified as the child's father on a certificate issued at birth, on a document used to file for a birth certificate or in a manner acceptable to the supervisor who is approving leave.

(2) "Parental leave" means a reasonable leave of absence not to exceed 15 working days which may be requested if an employee is adopting a child or the employee is the birth father. Parental leave may include the use of sick leave, annual leave, compensatory time and leave without pay. It does not create an additional category of paid or unpaid leave.

(3) "Placement for adoption" means, as provided in 40-8-103, MCA, "the transfer of physical custody of a child with respect to whom all parental rights have been terminated and who is otherwise legally free for adoption to a person who intends to adopt the child."

(Auth. 2-18-604, MCA; Imp. 2-18-601, 2-18-606, MCA.)

RULE IV PARENTAL LEAVE REQUESTS (1) An agency must permit a permanent employee, as defined in 2-18-601, MCA, to take a reasonable leave of absence not to exceed 15 working days for parental leave immediately following the birth of a child or placement of a child with the employee for adoption, as provided in 2-18-606, MCA.

(2) The employee may request to use sick leave, annual leave, compensatory time or leave of absence without pay as parental leave. An additional category of paid or unpaid leave is not created by 2-18-606, MCA, for use as parental leave.

(3) Requests to take and approval of parental leave must comply with agency procedures governing the use of leave. Requests and approval should be completed in advance of the anticipated leave date whenever possible.

(4) An agency may require documentation for the use of parental leave. For example, a birth father may be asked to provide a certificate issued at birth or another document identifying him as the birth father. Documentation from an adoptive parent may include, but is not limited to, an affidavit of intent to adopt or other placement agreement indicating a child's placement for adoption.

(5) Maternity leave due to disability will be granted according to 49-2-310 and 49-2-311, MCA, the Montana maternity leave act; in rules adopted by the human rights commission, department of labor and industry, found at ARM 24.9.1201 et seq., and the disability and maternity policy, ARM 2.21.901 et seq.

(Auth. 2-18-604, MCA; Imp. 2-18-601, 2-18-606, MCA.)

RULE V CLOSING (1) Provisions of this policy not required by statute will be followed unless they conflict with negotiated labor contracts, which will take precedence to the extent applicable.

(Auth. 2-18-604, MCA; Imp. 2-18-601, 2-18-606, MCA.)

5. It is reasonably necessary to amend the rules and adopt new rules because the 1991 Legislature in H. B. 758 (now codified at 2-18-601(10) and 2-18-606, MCA), directed the department of administration to develop a parental leave policy for state employees. Amendments to the sick leave and disability and maternity rules make these policies consistent with the new parental leave statute.

6. 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 Laurie Ekanger, Administrator, State Personnel Division, Department of Administration, Room 130 Mitchell Building, Helena, Montana 59620 no later than May 29, 1992.

7. Liz Hayden, Personnel Specialist, State Personnel Division, Department of Administration, Room 130 Mitchell Building, Helena, Montana 59620, has been designated to preside over and conduct the hearing.



Dal Smilie
Chief Legal Counsel
Rule Reviewer



Bob Marks
Director
Department of Administration

Certified to the Secretary of State April 20, 1992.

BEFORE THE BOARD OF PHARMACY
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment)
of rule 8.40.404 and proposed)
adoption of new rules pertain-)
ing to pharmacy technicians)
ADOPTION OF NEW RULES
PERTAINING TO PHARMACY
TECHNICIANS

TO: All Interested Persons:

1. The notice of proposed board action published in the Montana Administrative Register on February 27, 1992 is amended as follows due to a number of individuals requesting an opportunity to present data, views or arguments to the Board. In response to the requests, the Board has scheduled a hearing on the proposed rules and will open the rule-making record to the date set forth below in order to receive additional comments.

2. On May 20, 1992, at 8:00 a.m., a public hearing will be held in the conference room of the Professional and Occupational Licensing Bureau, 111 North Jackson, Helena, Montana to consider the proposed amendment and new language of the above-stated rules.

3. The language of the amended and proposed new rules designated above is the same as the original notice for those rules as found on page 267 of the 1992 Montana Administrative Register, issue number 4.

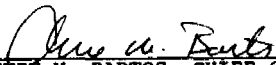
4. The new rules are proposed for the same reasons as set forth in the original notice found on page 267 of the 1992 Montana Administrative Register, issue number 4.

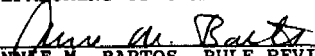
5. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Pharmacy, Arcade Building, 111 No. Jackson, Helena, MT 59620-0407, no later than May 28, 1992.

6. Carol Grell, attorney, has been designated to preside over and conduct the hearing.

BOARD OF PHARMACY
ROBERT KELLEY, CHAIRMAN

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, April 20, 1992.

BEFORE THE SUPERINTENDENT OF PUBLIC INSTRUCTION
OF THE STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PROPOSED AMENDMENT
amendment and repeal of rules)	AND REPEAL OF RULES RELATING
relating to regular and)	TO REGULAR AND SPECIAL
special education tuition)	EDUCATION TUITION

NO PUBLIC HEARING CONTEMPLATED

To: All Interested Persons

1. On June 1, 1992, the Superintendent of Public Instruction proposes to amend and repeal rules pertaining to regular and special education tuition.

2. The rules, as proposed to be amended, new material underlined, deleted material interlined, provide as follows:

10.10.301 FORMULA FOR CALCULATING REGULAR EDUCATION TUITION

(1) through (5) remains the same.

(6) The calculations in (2), ~~(3)~~ and ~~(3)~~ (4) is are the maximum regular education tuition charges; if the calculations result in zero or a negative number, the tuition charge will be 0. Pursuant to Sections 20-5-303, 20-5-306, and 20-5-312, MCA, the trustees may waive any or all of the calculated tuition amount, ~~provided that any waiver of tuition is applied equally to all students.~~

(7) Tuition amount should be adjusted for the portion of the year the student is enrolled.

(AUTH: 20-5-305, 20-5-312, MCA; IMP: 20-5-305, 20-5-312, 20-6-702, MCA)

10.16.1312 ELIGIBLE TUITION CATEGORIES (1) remains the same.

~~(2) The child study team required in ARM 10.16.1203 shall use the definitions provided below to determine categories eligible for tuition.~~

~~(3) Tuition may be charged for services provided by receiving public school district for full-time handicapped students in three (3) categories.~~

~~(a) Moderately handicapped students are defined as students requiring more than half-time services in special education programs.~~

~~(i) Students within this category receive mainstreaming opportunities generally in nonacademic areas. Students receive 15-25 hours per week of special education services.~~

~~(ii) Moderately handicapped students may receive related services of speech therapy, occupation and/or physical therapy and psychological services. Such related services generally total not more than 30 minutes of the school day.~~

~~(iii) Individual programming for moderately handicapped students may include instruction in basic academic skills.~~

~~(b) Severely handicapped students are defined as students receiving limited mainstreaming opportunities and whose special~~

education services range between 20-30 hours per week.

(i) A variety of related services are often necessary to address the program and service needs of the severely handicapped student. Educational needs of these students generally require a ratio of one (1) adult teacher or aide, under supervision of a teacher, to five (5) students.

(ii) Individual programming for severely handicapped students generally will reflect limited academic programming and will focus upon self-help and/or pre-vocational and/or vocational skills. Students whose social skill development or behavior require a highly structured environment characterized by close supervision and management are included in this group.

(c) Profoundly handicapped students are defined as students whose handicapping condition is so severe that they are generally limited to reverse mainstreaming or mainstreaming with direct assistance of special education personnel.

(i) Related services of occupational therapy, physical therapy, transportation, and psychological services, comprise one (1) hour or more of the school day.

(ii) Individual programming for the profoundly handicapped often addresses basic self-help activities such as mobility training for the nonambulatory, feeding programs, toileting and pre-vocational programs.

(iii) Dependency of the profoundly handicapped requires continuous, direct supervision which may require a ratio of one (1) adult teacher or aide, under the supervision of a teacher, to three (3) students.

(2) The responsible school official of the receiving school district shall use the categories defined below to determine special education tuition rates. These categories apply only to calculation of tuition for students receiving special education services for more than one-half of the school day. The special education services upon which these calculations are based must be identified on the student's current Individualized Education Program (IEP) plan.

(a) Category 1 includes students who receive special education and related services for more than one-half of the school day but less than twenty (20) hours per week.

(b) Category 2 includes students who receive special education and related services from twenty (20) hours per week to thirty (30) per week. Students in this category require services to be provided in a highly structured environment requiring close supervision and management.

(c) Category 3 includes students who receive special education and related services for thirty (30) hours or more per week. Students in this category receive related services at least one (1) hour per day, five (5) days per week. Students require continual and direct supervision and may require a ratio of one (1) teacher or aide under the direct supervision of a teacher to three (3) students.

(AUTH: 20-5-305, 20-5-312, MCA; IMP: 20-5-305, 20-5-312, MCA)

10.16.1314 FORMULA FOR SPECIAL EDUCATION TUITION RATES

(1) The following formula shall be used by school districts to calculate maximum special education tuition rates to be paid in the following year, ensuing school fiscal year, using data available on March 15 of the current school fiscal year.

The source of data shall be the prior year trustees annual financial summary, pupil data reports, and the school accreditation fall report of student enrollment.

(a) The maximum special education tuition rates shall be calculated as follows:

(1) Elementary tuition

(A) Regular tuition rate calculations are determined pursuant to section 20-9-305, MCA, and 10-10-302:

	In	Out of
	County	County
1. Total Fund 101 Expenditures (last FY)		
2. Total Fund 114 Expenditures (last FY)	XXXXXXXX	
3. Total Fund 150 Expenditures (last FY)		
4. Total (line 1 + 2 + 3)		
5. Enrollment (last FY)		
6. Line 4 divided by line 5		
7. County Equalisation Revenue (last FY)		
(Revenue Code 101-3110)		
8. State Equalisation Revenue (last FY)		
(Revenue Code 101-3110 and 3111)		
9. Guaranteed Tax Base for General Fund		
{Statewide mill value per elementary ANB (last FY) * ANB}		
* number of General Fund Permissive mills levied (last FY)		
10. Guaranteed Tax Base Revenue for Retirement Fund		
{Statewide mill value per elementary ANB (last FY) * ANB}		
* number of Retirement Fund mills levied (last FY)		
	XXXXXXXX	
11. Total (Line 7 + 8 + 9 + 10)		
12. ANB (last FY)		
13. Line 11 divided by line 12		
14. Regular tuition - Elementary		
Line 6 minus line 13		
(B) Special Education Elementary tuition rate calculations		
15. Moderately handicapped rate		
(line 14 doubled)		
16. Plus EHA Part B flow-through per		
student rate (current year)		
17. Mod. handio. rate (line 15 + 16)		
18. Severely handicapped rate		
(line 14 tripled)		
19. Plus EHA Part B flow-through per		
student rate (current year)		
20. Severe handio. rate (line 18 + 19)		
21. Profoundly handicapped rate		
(line 14 quadrupled)		
22. Plus EHA Part B flow-through per		
student rate (current year)		
23. Prof. handio. rate (line 21 + 22)		

(C) Kindergarten tuition rate (half day program)

- 24. Regular tuition (.5 line 14) _____
- 25. Mod. handio. rate (.5 line 17) _____
- 26. Severe handio. rate (.5 line 20) _____
- 27. Prof. handio. rate (.5 of line 23) _____

(ii) High school tuition

(A) Regular tuition rate calculations are determined pursuant to section 20-9-312, MCA, and 10-10-302.

- | | In | Out of |
|---|---------|--------|
| | County | County |
| 1. Total Fund 101 Expenditures (last FY) | _____ | _____ |
| 2. Total Fund 114 Expenditures (last FY) | XXXXXXX | _____ |
| 3. Total Fund 150 Expenditures (last FY) | _____ | _____ |
| 4. Total (line 1 + 2 + 3) | _____ | _____ |
| 5. Enrollment (last FY) | _____ | _____ |
| 6. Line 4 divided by line 5 | _____ | _____ |
| 7. County Equalization Revenue (last FY) | _____ | _____ |
| (Revenue Code 101-2110) | _____ | _____ |
| 8. State Equalization Revenue (last FY) | _____ | _____ |
| (Revenue Code 101-3110 and 3111) | _____ | _____ |
| 9. Guaranteed Tax Base for General Fund | _____ | _____ |
| (Statewide mill value per elementary ANB (last FY) * ANB) | _____ | _____ |

* number of General Fund Permissive mills levied (last FY) _____

- 10. Guaranteed Tax Base Revenue for Retirement Fund
- (Statewide mill value per elementary ANB (last FY) * ANB)

* number of Retirement Fund mills levied (last FY) _____

- | | | |
|---|-------|-------|
| 11. Total (Line 7 + 8 + 9 + 10) | _____ | _____ |
| 12. ANB (last FY) | _____ | _____ |
| 13. Line 11 divided by line 12 | _____ | _____ |
| 14. Regular tuition High School | _____ | _____ |
| Line 6 minus line 13 | _____ | _____ |
| (B) Special Education High School tuition rate calculations | _____ | _____ |
| 15. Moderately handicapped rate | _____ | _____ |
| (line 14 doubled) | _____ | _____ |
| 16. Plus EHA Part B flow through per | _____ | _____ |
| student rate (current year) | _____ | _____ |
| 17. Mod. handio. rate (line 15 + 16) | _____ | _____ |
| 18. Severely handicapped rate | _____ | _____ |
| (line 14 tripled) | _____ | _____ |
| 19. Plus EHA Part B flow through per | _____ | _____ |
| student rate (current year) | _____ | _____ |
| 20. Severe handio. rate (line 18 + 19) | _____ | _____ |
| 21. Profoundly handicapped rate | _____ | _____ |
| (line 14 quadrupled) | _____ | _____ |
| 22. Plus EHA Part B flow through per | _____ | _____ |
| student rate (current year) | _____ | _____ |
| 23. Prof. handio. rate (line 21 + 22) | _____ | _____ |
| (iii) K-12 district tuition | _____ | _____ |
| (A) Regular tuition rate calculations are determined | _____ | _____ |
| pursuant to 10-10-302. | _____ | _____ |

~~(B) Special education tuition rate calculations will be applied to the elementary or high school regular tuition calculations in (A) in accordance with (i)(B) or (ii)(B).~~

~~(a) The total district foundation program funding for the prior school fiscal year, without special education payments, shall be divided by the ANB number used to determine that foundation program amount. This is the district foundation program funding per ANB.~~

~~(b) The figure calculated in (a), district foundation program funding per ANB, shall be used to determine the maximum special education tuition rates as follows:~~

~~(i) Category 1: District foundation program funding per ANB times 1.00;~~

~~(ii) Category 2: District foundation program funding per ANB times 1.50;~~

~~(iii) Category 3: District foundation program funding per ANB times 2.00.~~

~~(c) Nothing within the rules for calculating the maximum regular special education tuition rates shall prevent school districts from agreeing to lesser rates.~~

~~(d) Higher special education tuition rates may be negotiated between the school districts if the county superintendent determines that at least one of the following conditions is met:~~

~~(i) The calculated tuition amount under-represents the additional costs of services for the student due to the unique nature of the student's Individualized Educational Program (IEP).~~

~~(ii) The services necessary for implementation of the student's IEP require program expansion.~~

~~(iii) The lack of special education contingency funds necessitates the addition of services without supplemental state special education funding.~~

~~(2) The calculations used to determine the special education tuition rate and documentation of the number of hours of special education services to each student per week shall be provided by the trustees as part of the tuition reports to the county superintendent, pursuant to sections 20-5-306 and 20-5-312, MCA. The county superintendent shall provide a copy of the calculations and documentation of the number of hours of special education services to each student per week to the superintendent of each county in which the reported students reside. In turn, each county superintendent shall provide a copy of the calculations and documentation of the number of hours of special education services to each student per week to each school district in the county which owes tuition amounts to other school districts for special education students, and to each parent who owes tuition payments for a special education student.~~

~~(3) The special education tuition rate calculation should be adjusted for the portion of the year the student is enrolled in special education services in the receiving school district.~~
(AUTH: 20-5-305, 20-5-312, MCA; IMP: 20-5-305, 20-5-312, MCA)

3. The proposed rule for repeal follows. Full text of the rule is located at page 10-245.1, ARM.

10.16.1313 TUITION CALCULATION

(AUTH: 20-5-305, 20-50-312, MCA; IMP: 20-5-305, 20-5-312, MCA)


4. The rules were amended to address the impact to special education tuition which occurred as a result of the school funding changes implemented in the 1989 legislature, House Bill 28. A special education task force, convened at the request of the Superintendent of Public Instruction, requested on April 13, 1992, that the special education rules be amended to change the procedure by which special education tuition is calculated.

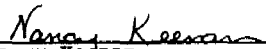
5. The amendment to these rules addresses concerns of county superintendents and district officials who contacted the Office of Public Instruction and is designed to clarify portions of the rules that result in a negative calculation and which apply an elementary statute to both elementary and high school calculations. When calculations were done using these rules, issues surfaced that were not evident prior to actual use of the formulas.

6. Interested persons may submit their data, views or arguments concerning the proposed rule changes in writing to the Office of Public Instruction, Room 106, State Capitol, Helena, Montana 59620, no later than 5:00 p.m. on May 29, 1992.

7. If a person who is directly affected by the proposed amendment wishes to express his/her data, views and arguments orally or in writing at a public hearing, s/he must make written request for a hearing and submit this request along with any written comments s/he may have to the Office of Public Instruction, Room 106, State Capitol, Helena, Montana 59620, no later than 5:00 p.m. on May 29, 1992.

8. If OPI 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 directly be affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register.


Bada J. Lovitt
Rule Reviewer
Office of Public Instruction


Nancy Keenan
Superintendent
Office of Public Instruction

Certified to the Secretary of State April 20, 1992

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PROPOSED REPEAL
amendment of Teacher	)	OF ARM 10.57.210 HEALTH
Certification	)	EXAMINATION
		NO PUBLIC HEARING CONTEMPLATED

To: All Interested Persons

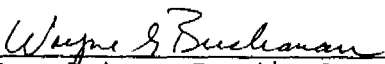
1. On June 25, 1992, the Board of Public Education proposes to repeal ARM 10.57.210, Health Examination found on page 10-838.2 of the Administrative Rules of Montana. AUTH: 20-4-102, MCA; IMP: 20-1-104, MCA

2. The Board proposes this repeal because the board has determined that this rule exceeds the statute 20-4-104 MCA "Qualifications" which was amended by the Montana State Legislature to remove the subsection of the statute that read "He has a certificate of a licensed physician attesting to his satisfactory health".

3. Interested parties may submit their data, views or arguments in writing to Bill Thomas, Chairperson of the Board of Public Education, 33 South Last Chance Gulch, Helena, MT 59620, no later than May 31, 1992.

4. If a person who is directly affected by the proposed repeal wishes to express their data, views or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Bill Thomas, Chairperson of the Board of Public Education, 33 S. Last Chance Gulch, Helena, MT 59620, no later than May 31, 1992.

5. If the Board receives requests for a public hearing on the proposed repeal from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed repeal; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 54 as there are 538 school districts presently in Montana.


Wayne Buchanan, Executive Secretary
Board of Public Education

Certified to the Secretary of State, 4/20/92.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the) NOTICE OF PROPOSED AMENDMENT OF
amendment of Accreditation) ARM 10.55.601 ACCREDITATION
Standards) STANDARDS: PROCEDURES

NO PUBLIC HEARING CONTEMPLATED

To: All Interested Persons

1. On June 25, 1992, the Board of Public Education proposes to amend ARM 10.55.601, Accreditation Standards.

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

10.55.601 ACCREDITATION STANDARDS: PROCEDURES (1)
through (5) (e) will remain the same.

(f) 2 FTE for schools with 511 to 1050 students.

AUTH: Sec. 20-2-114, MCA; IMP: Sec. 20-2-121, MCA

3. The Board proposes this amendment because a number of school districts have petitioned the Board to include the accreditation standard relating to additional building administrative personnel in those standards which may have their implementation deferred for financial reasons.

4. Interested parties may submit their data, views or arguments in writing to Bill Thomas, Chairperson of the Board of Public Education, 33 South Last Chance Gulch, Helena, MT 59620, no later than May 31, 1992.

5. If persons who are directly affected by the proposed amendment wish to express their data, views or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Bill Thomas, Chairperson of the Board of Public Education, 33 S. Last Chance Gulch, Helena, MT 59620, no later than May 31, 1992.

6. If the Board 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. There are 538 school districts in Montana and 10% is 54.

Wayne Buchanan, Executive Secretary
Board of Public Education

Certified to the Secretary of State, 4/20/92.

MAR Notice No. 10-3-153

8-4 / 30 / 92

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the) NOTICE OF PROPOSED AMENDMENT OF
amendment of Certification) ARM 10.58.528 ENDORSEMENT
) OF COMPUTER SCIENCE TEACHERS

NO PUBLIC HEARING CONTEMPLATED

To: All Interested Persons

1. On June 25, 1992, the Board of Public Education proposes to amend ARM 10.58.528, Endorsement of Computer Science Teachers.

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

10.58.528 ENDORSEMENT--OF COMPUTER SCIENCE TEACHERS (1) The program shall prepare the prospective teacher in two areas: core computer science and application and instructional use of computers.

(12) For the prospective teacher in the core computer science
~~the program~~ area shall:

(a) through (b)(v) will remain the same.

(vi) program testing

(c) through (f) will remain the same.

(23) For the prospective teacher in the applications and instructional uses of computers ~~the program~~ area shall:

(a) through (h) will remain the same.

AUTH: Sec. 20-2-114

IMP: Sec. 20-2-121


3. The Board proposes to amend this rule to reflect the intent of the Board Certification Committee that computer science teachers be prepared in two areas for certification and to make minor editorial changes in the title and text of the rule in conformity with similar rules.

4. Interested parties may submit their data, views or arguments in writing to Bill Thomas, Chairperson of the Board of Public Education, 33 South Last Chance Gulch, Helena, MT 59620, no later than May 31, 1992.

5. If persons who are directly affected by the proposed amendment wish to express their data, views or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Bill Thomas, Chairperson of the Board of Public Education, 33 S. Last Chance Gulch, Helena, MT 59620, no later than May 31, 1992.

6. If the Board receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of

the persons who are directly affected by the proposed amendment; from the Administrative Code Committee of the legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has not been determined but is presumed to be more than 25.


Wayne Buchanan, Executive Secretary
Board of Public Education

Certified to the Secretary of State, 4/20/92.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PROPOSED AMENDMENT OF
amendment of External Diploma)	)	ARM 10.66.201 OPERATIONS,
Program	)	10.66.202 ELIGIBILITY,
	)	10.66.203 ENROLLMENT, 10.66.205
	)	RECORDS, 10.66.206
	)	NON-COMPLETION OF PROGRAM,
	)	AND 10.66.207 ANNUAL REPORT

NO PUBLIC HEARING CONTEMPLATED

To: All Interested Persons

1. On June 25, 1992, the Board of Public Education proposes to amend ARM 10.66.201 Operations, 10.66.202 Eligibility, 10.66.203 Enrollment, 10.66.205 Records, 10.66.206 Non-completion of program and 10.66.207 Annual Report.

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

10.66.201 OPERATIONS (1) ~~The adult specialist of the office of public instruction is the accountable officer for administration and operational procedures for program operations and the establishment of authorized external diploma program centers.~~

(2) ~~A center may be established in any accredited school, community college or other public-funded educational institution. The typical center will be located in public school districts, vocational-technical centers or public-tax supported community colleges preferably as part of an adult basic educational program.~~

(3) ~~A center must be established with not less than two adequately trained professional educators. The minimum criteria for external diploma program staff members are:~~

(a) ~~Holder of a current Montana teaching certificate;~~

(b) ~~At least one week of training in delivering the services of the program;~~

(c) ~~An appreciation of the effect upon successful participants in the program and of the need to sustain program integrity.~~

(1) Any Montana school district, tribal college, community college or publicly-supported Montana-based educational institution (Job Corps) may enter into a contract with the American Council on Education to operate the External Diploma Program.

(2) Programs approved by the American Council on Education may use funds from the Adult Education mill levy (Section 20-7-705), county literacy mill levy (Section 20-7-714), federal funds from the National Literacy Act (P.L. 102-73) and other appropriate federal funds to support the External Diploma Program.

(3) Fees may be charged to participants for the cost of

material and/or other operational costs.

AUTH: Sec. 20-2-121, 20-7-131 IMP: Sec. 20-2-121

10.66.202 ELIGIBILITY (1) The candidates must be residents of the state of Montana who have attained their ~~nineteenth-twenty~~ first birthday. ~~and whose high school class shall have graduated~~

(a) will remain the same.

~~(i)(i)~~ Has resided in the state for thirty consecutive days prior to enrollment;

(ii) will remain the same.

~~(iii) Shows exceptional circumstances that may constitute a basis for consideration, i.e., special social, physical, economic or educational circumstances beyond control of the applicant.~~

(b) will remain the same.

(2) ~~An individual enrolled in any accredited secondary education institution, or having been enrolled six months prior to application for enrollment in the program is not eligible for admittance to the program. Exceptions can be made by the adult education specialist with proper documentation. Persons 19 or 20 years of age may receive a waiver of the age requirement for exceptional circumstances. The applicant for the waiver must submit letter(s) of verification from potential employer or employer including military recruiter should state the need of the external diploma for the purpose of employment and/or promotion. The needs of the educational institutions including educational scholarship or grant donors should cite the requirements of a high school equivalency.~~

AUTH: Sec. 20-2-121, 20-7-131 IMP: Sec. 20-2-121

10.66.203 ENROLLMENT (1) Each individual enrolling in the external diploma program will be evaluated by program staff in order to establish applicable academic skill levels. ~~Requirements of previous academic achievement may not be used as enrollment criteria.~~ accordance with standards and procedures established by the American Council on Education.

AUTH: Sec. 20-2-121, 20-7-131 IMP: Sec. 20-2-121

10.66.205 RECORDS (1) will remain the same.

(2) Upon successful completion of the external diploma program, ~~records from an individual's file will be transferred to the Adult Education Specialist of the office of public instruction and in accordance with the American Council on Education an individual's permanent file will be established and maintained by the program.~~

(3) ~~The following documents will constitute the permanent file for each individual maintained in the office of public instruction: assessment and diagnostic summary, individual enrollment form. The data entered on the enrollment form will become part of the permanent file for the applicant kept in the~~

~~office of public instruction. When necessary, the external diploma program center personnel may assist the applicant to provide accurate and correct information. The office of public instruction will maintain individual external diploma records file prior to 1992. Verifiable requests for copies of the records will be served.~~

AUTH: Sec. 20-2-121, 20-7-131, MCA; IMP: Sec. 20-2-121, MCA
10.66.206 NON-COMPLETION OF PROGRAM (1) will remain the same.

(2) If an individual withdraws from the program without notifying the external diploma program center after the expiration of the individual program agreement, the center must maintain the individual's active file for five years. Upon expiration of this waiting period, ~~the center will forward to the Adult Education Specialist the following records: program will destroy all records.~~

- ~~(a) Assessment and diagnostic summary;~~
- ~~(b) Individual education program;~~
- ~~(c) Individual enrollment form;~~
- ~~(d) A notification for the external diploma program center director of the circumstances for termination of the individual enrollment, and of the level of achievement reached at the time of termination.~~

AUTH: Sec. 20-2-121, 20-7-131, MCA; IMP: Sec. 20-2-121, MCA
10.66.207 ANNUAL REPORT (1) ~~The superintendent of public instruction will report to the board of public education annually the number of external diploma programs in the state and number of students enrolled in the program. Approved programs will send the executive secretary of the board of public education a summary count of the number of external diplomas awarded during the calendar year. Reports are to be sent prior to February 28 of the previous year data.~~


AUTH: Sec. 20-2-121, 20-7-131, MCA; IMP: Sec. 20-2-121, MCA
3. The Board proposes to amend these rules because the American Council of Education has established stringent rules for the external diploma program and there is no longer any reason for the Superintendent of Public Instruction to duplicate this service.

4. Interested parties may submit their data, views or arguments in writing to Bill Thomas, Chairperson of the Board of Public Education, 33 South Last Chance Gulch, Helena, MT 59620, no later than May 31, 1992.

5. If persons who are directly affected by the proposed amendment wishes to express their data, views or arguments orally or in writing at the a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Bill Thomas, Chairperson of the Board of Public Education, 33 S. Last Chance Gulch, Helena, MT 59620, no later than May 31, 1992.

6. If the Board 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. There are 100 persons enrolled in the external diploma program in Montana and 10% is 10.


Wayne Buchanan, Executive Secretary
Board of Public Education

Certified to the Secretary of State, 4/20/92.

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PUBLIC HEARING ON
amendment of Teacher	)	PROPOSED AMENDMENT OF ARM
Certification	)	10.57.405 CLASS 5 PROVISIONAL
		CERTIFICATE

To: All Interested Persons

1. On June 25, 1992 at 3:30 p.m., or as soon thereafter as it may be heard, a public hearing will be held at the State Capitol Conference room 312-2 in Helena, in the matter of the amendment of ARM 10.57.405 Class 5 Provisional Certificate.

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

10.57.405 CLASS 5 PROVISIONAL CERTIFICATE (1) through (7) will remain same.

(8) Administrative endorsement:

(a) Superintendent endorsement: (OPTION A) Class 5 certification with a plan of professional intent leading to a class 3 (administrative) certificate with a superintendent endorsement may be issued to applicants who meet the following minimum requirements:

(i) through (iii)(A) will remain the same.

(B) At least 12 graduate quarter (8 semester) credits, or the equivalent, in elementary education to include elementary administration and secondary curriculum if the applicant does not qualify for secondary endorsement on the class 1 or 2 teaching certificate; Or, at least 12 graduate quarter (8 semester) credits, or the equivalent, in secondary education to include secondary administration and secondary curriculum if the applicant does not qualify for secondary endorsement on the class 1 or 2 teaching certificate, (additions meet class 3 superintendent rule).

(iv) through (v)(D) will remain the same.

(b) Superintendent endorsement: (OPTION B) Class 5 certification with a plan of professional intent leading to a class 3 (administrative) certificate with a superintendent endorsement may be issued to applicants who meet the following minimum requirements:

(i) Eligibility for a class 1, 2, or 5 teaching certificate at the appropriate level.

(ii) Verification of a minimum of three years of successful experience as an appropriately certified and assigned teacher (see ARM 10.57.403 (6)(c) and (7)(c).)

(iii) Master's degree in school administration, or equivalent, from an institution accredited for administrative preparation.

(iv) hold valid administrative certification as superintendent from a state other than Montana, and

(v) within the seven years immediately preceding application

for certification in Montana, satisfactorily served as a superintendent for not fewer than twenty-seven months, in one or more states, on at least a one-half time basis.

(vi) The plan of professional intent immediately preceding application for certification must have in the program at least 12 graduate quarter (8 semester) credits in administration beyond the master's degree.

(vii) The following courses must be found in the official transcripts of past graduate course work or be included in the class 5 professional plan of intent:

- (A) general school administration,
- (B) elementary and secondary administration,
- (C) administration of guidance services,
- (D) supervision of instruction/evaluation of personnel,
- (E) school curriculum K-12,
- (F) school finance (budgeting and economics of education),
- (G) school law,
- (H) school management/facilities management,
- (I) school negotiations,
- (J) public relations, and
- (K) Twelve (12) graduate quarter (8 semester) credits in

elementary education to include elementary administration and elementary curriculum if endorsed as a teacher at the secondary level; twelve (12) graduate quarter (8 semester) credits in secondary education to include secondary administration and secondary curriculum if endorsed as a teacher at the elementary level.

(b)(c) Principal endorsement: Class 5 certification with a plan of professional intent leading to a class 3 (administrative) certificate with principal endorsement may be issued to applicants who meet the following minimum requirements, and have a minimum of three years of ~~appropriate--teaching--experience--successful experience as an appropriately certified and assigned teacher~~ (see ARM 10.57.403 (6)(c) and (7)(c).)

(i) through (iv) will remain the same.

(v) Class 5 certification with a plan of professional intent leading to class 3 (administrative) certification for principal may also be issued to applicants who within the last five years have been fully eligible for administrative certification in Montana endorsed in one of the general areas (elementary principal, secondary principal, superintendent or supervisor) but who may not meet the new course requirements. In addition, the class 5 certificate may be approved for individuals in programs that have been authorized by the superintendent of public instruction. All administrative certificates are based on a minimum of a master's degree in administration or the equivalent with state specified course work, and a minimum of three years of ~~appropriate--teaching--experience~~ successful experience as an appropriately certified and assigned teacher (see ARM 10.57.403 (6)(c) and (7)(c).)

(vi) Class 5 certification with a plan of professional intent leading toward the class 3 (administrative) certificate for

principal may be issued to applicants who hold valid certification in another state in general administrative areas but who may not meet Montana's specific course requirements. The current certification must have been based on not less than a master's degree, the completed and approved program in school administration of a college accredited for administrative preparation and a minimum of three years of ~~appropriate teaching experience~~ successful experience as an appropriately certified and assigned teacher (see ARM 10.57.403 (6)(c) and (7)(c).) (9) through (11) remain the same.

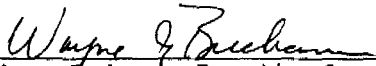
AUTH: Sec. 20-4-102

IMP: Sec. 20-4-106, 20-4-108

3. The board is proposing the amendments to this rule because the present rule does not take into consideration administrative certification or experience in other states. Because, increasingly, Montana relies on experienced administrators from other states, it is necessary to accomodate their training and background for certification in Montana.

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 Bill Thomas, Chairperson of the Board of Public Education, 33 S. Last Chance Gulch, Helena, MT 59620, no later than June 8, 1992.

5. Bill Thomas, the Chairperson to the Board of Public Education, 33 S. Last Chance Gulch, Helena, MT 59620, has been designated to preside over and conduct the hearing.


Wayne Buchanan, Executive Secretary
Board of Public Education

Certified to the Secretary of State on 4/20/92.

BEFORE THE DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES
OF THE STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PROPOSED AMENDMENTS
amendments of Rules 20.3.202,)	OF RULES 20.3.202, 20.3.208,
20.3.208, 20.3.209, 20.3.212,)	20.3.209, 20.3.212, 20.3.213,
20.3.213, 20.3.214, 20.3.215,)	20.3.214, 20.3.215, 20.3.216,
20.3.216, and adoption of New)	and adoption of New Rules
Rules I and II pertaining)	I and II pertaining to
to Definitions, or)	DEFINITIONS, ORGANIZATION
ganization and management,)	AND MANAGEMENT,
personnel, staff development)	PERSONNEL, STAFF DEVELOPMENT
and certification and seven)	AND CERTIFICATION AND SEVEN
treatment component require-)	TREATMENT COMPONENT REQUIRE-
ments.	MENTS.

NO PUBLIC HEARING CONTEMPLATED.

TO: ALL INTERESTED PERSONS

1. On July 1, 1992, the Department of Corrections and Human Services proposes to amend Rules 20.3.202, 20.3.208, 20.3.209, 20.3.212, 20.3.213, 20.3.214, 20.3.215, 20.3.216, and adopt New Rules I and II to: Encourage the most appropriate, effective and cost efficient utilization of alcohol and drug treatment services via patient placement criteria and expanded utilization review; Ensure quality and appropriateness of services statewide; Offer a full continuum of care; Require adequate supervision of employees.

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

20.3.202 DEFINITIONS In addition to the terms defined in section 53-24-103 MCA,

(1) through (3) remain the same.

(4) "Biopsychosocial Assessment" means a comprehensive assessment which includes a history of the use of alcohol and other drugs, physical, emotional, social and spiritual needs. This assessment corresponds to the checklist of dimensional admission criteria utilized in patient placement.

(4) remains the same but will be renumbered.

(5) 6 Chemical dependency counselor.

(a) remains the same.

(b) "Eligible counselor" means an individual who possesses at least 70 certification points based on education/workshop training and/or work experience. meets eligibility requirements as set forth in 53-24-215 MCA.

(6) remains the same, but will be renumbered.

(8) "Day Treatment Care Component" means services for persons requiring a more intensive treatment experience than intensive outpatient but who do not require inpatient. This level of care provides at least 5 hours of contact time per day for at least 4 days per week. This service is generally provided within an inpatient setting and requirements for

services are the same with the exception of residential requirement.

(7) through (12) remain the same but will be renumbered.

(15){13} "Intensive Outpatient Care Component" means treatment for persons requiring a structured outpatient program providing at least-8-10-30 hours of counseling and chemical dependency education services per week for a duration of 4-6 weeks. Services shall include assessment, group, individual, and family counseling, chemical dependency education, referral and discharge.

(14) through (45) remain the same but will be renumbered.

AUTH: 53-24-208 and
53-24-215

IMP. SEC. 53-24-204, 208, 209, MCA
53-24-215

20.3.208 ALL PROGRAMS - ORGANIZATION AND MANAGEMENT

(1) The administrative organization of all approved chemical dependency treatment programs shall ensure that:

(a) Lines and delegation of authority, responsibilities, structure and reporting relationships are explicitly stated in writing and delineate all staff positions and functions. Supervision must be clearly demonstrated.

(b) through (i) remain the same.

(j) Dimensional admission, continued stay and discharge criteria must be developed for each component to promote the least restrictive level of care and encompass the following dimensions:

(i) Alcohol and/or drug intoxication and/or potential withdrawal;

(ii) Physical conditions or complications;

(iii) Emotional/behavioral conditions and complications;

(iv) Treatment acceptance/resistance;

(v) Relapse potential;

(vi) Recovery environment (support systems).

(vii) Considerations - two factors must be considered in making treatment placement decisions which override the patient treatment match determined by these criteria: (A) prior treatment failure and (B) availability of the selected level of care. A treatment failure at any given level of care indicates the need for treatment at a higher level of care. Note: Nationally recognized samples of dimensional admission, continued stay, and discharge criteria are available at the Department of Corrections and Human Services, Alcohol and Drug Abuse Division.

(j) through (p) remain the same but will be relettered.

AUTH: 53-24-208 MCA

IMP. SEC. 53-24-208, 209, 306 MCA

20.3.209 ALL PROGRAMS - PERSONNEL, STAFF DEVELOPMENT AND CERTIFICATION

(1) There shall be sufficient qualified and certified chemical dependency counselors, clerical and other support staff, who are not of the present client population, to ensure the attainment of program service objectives and properly maintain the chemical dependent treatment facility. Supervision of all professional and support staff must be clearly

demonstrated. This shall not preclude the assignment of work to a client when the assignment is part of the client's treatment program, the client's work assignment has therapeutic value, and the client works under the immediate supervision of a certified staff member.

(2) Remains the same.

(3) Certification:

(a) and (b) remain the same.

(c) Programs must ensure adequate supervision of eligible staff in the certification process, particularly in the 12 core areas as defined in 53-24-215 MCA.

(4) through (8) remain the same.

AUTH: 53-24-208 MCA and
53-24-215 MCA

IMP. SEC. 53-24-204, 208, MCA

20.3.212 DETOXIFICATION (EMERGENCY CARE) COMPONENT

REQUIREMENTS (1) Patient placement criteria shall be developed and address the following:

(a) Non-hospital detoxification -- Admission of clients to a chemical dependency detoxification component shall be limited to persons who need detoxification services with 24-hour supervision and do not manifest signs and symptoms of a condition which warrants acute care and treatment in a hospital. Persons shall demonstrate at least one of the following: a significant likelihood of withdrawal syndrome; previous history of having failed at attempts at outpatient withdrawal; the presence of a medical condition serious enough to warrant inpatient (non hospital) management and/or isolated medical symptoms of concern. Services are provided in a non-hospital approved chemical dependency program.

~~(2) -- Detoxification services shall be provided by approved chemical dependency treatment programs and/or licensed hospitals providing detoxification services to all intoxicated and/or incapacitated persons unless uncontrollable because of violent behavior.~~

(b) Hospital detoxification - Admission to this level of care is designated for persons requiring a hospital setting due to acute intoxication, unconsciousness, withdrawal of significance or other physical or psychiatric conditions. An acute care hospital license is required for this service; an approval designation is not required.

(c) Dimensional admission criteria shall address 20.3.2081 (i)(i)(ii) and (iii).

(d) Continued stay criteria shall be based on the above criteria and justify an extension if detoxification lasts over 3 days.

(e) Discharge criteria shall be based on previous dimensional criteria and demonstrated successful completion of this level of care or transfer.

~~(3)(2) Detoxification services shall include:~~

(a) Admission and screening services in accordance with dimensional admission criteria to substantiate the appropriateness of treatment.

(b) through (h) remain the same.
(4)(3) through (6) remain the same, but will be renumbered.
(7)(6) Client recordkeeping and reporting requirements specific to the detoxification component shall include:

(a) and (b) remain the same.

(c) Admission/utilization review note, which justifies the admission to this level of care based on compliance with dimensional admission criteria.

(c) through (h) remain the same but will be relettered.

(8)(7) Program effectiveness and quality assurance efforts including individual case review and utilization reviews.

(a) remains the same.

(b) Utilization and effectiveness review is a process of using predefined patient placement criteria to evaluate the necessity and appropriateness of allocated services and resources to ensure that the program's services are necessary, cost efficient and effectively utilized. Utilization and effectiveness reviews shall:

(i) Utilize patient placement criteria to justify the necessity of admissions, continued stay, transfer and discharge at timely intervals via a utilization review note.

(i) and (ii) remain the same but will be relettered.

(iv)(iii) Ensure methods for identifying utilization related problems which include bed utilization, length of stay, analysis of the appropriateness and necessity of admission, continued stays, recidivism, supportive services, effectiveness of an aftercare plan based on verification of referrals for a continuum of care, as well as utilization of the findings of related quality assurance activities and all relevant documentation.

(iv) remains the same but will be relettered.

AUTH: 53-24-208 MCA

IMP. 53-24-208 MCA

20.3.213 INPATIENT - HOSPITAL COMPONENT REQUIREMENTS

(1) Patient placement criteria shall address the following:

(a) Persons requiring intensive residential care for the treatment of chemical dependency in a hospital or suitably equipped medical setting shall be admitted to this component. Persons needing detoxification shall not be admitted or retained but shall be referred or transferred to an approved chemical dependency detoxification program or a unit within a licensed hospital which provides detoxification due to acute intoxication, withdrawal, other physical and/or psychiatric conditions or whose chemical dependency has progressed to the point where a hospital setting is required to provide the treatment intensity necessary to address the severity of the condition. Typically, admission to this level requires a patient likely to develop a withdrawal syndrome of significance if not medically treated; the presence of significant psychiatric problems requiring inpatient management; and/or the presence of significant numbers of neurological and neuro-psychological signs. The presence of significant or unstable

medical disorders or physical symptoms related to deteriorated personal health also warrants admission at this level.

(b) (Persons manifesting signs and symptoms of a condition that warrants acute medical care shall not be admitted but shall be transferred to a licensed hospital or a unit within a licensed hospital which provides acute medical services.)

(b) Additionally, persons requiring this level of care may exhibit at least two of the following: a significant likelihood of the development of a withdrawal syndrome; previous history of having failed at attempts at outpatient withdrawal; the presence of isolated medical symptoms of concern; external mandates for inpatient treatment; a recent history of inability to function without some externally applied behavior controls; and significant denial of the severity of his/her own addiction. Environmental factors likely to prevent a patient from maintaining treatment progress also merits admission to this level of treatment.

(c) Dimensional admission criteria must demonstrate compliance with the preceding descriptions and encompass the dimensions delineated in 20.3.208(1)(i)(i)-(vi).

(d) Continued stay criteria shall be based on the above criteria to justify continuance at this level of care or transfer to a more or less restrictive treatment environment. A continued stay/utilization review must be documented at least once, preferably at 10 days.

(e) Discharge criteria shall be based on previous dimensional criteria to demonstrate successful completion of treatment or justification for an extension or transfer.

(2) Inpatient services shall include:

(a) Admission and screening services in accordance with admission criteria which substantiate the appropriateness of treatment and include based on a comprehensive biopsychosocial assessment by a certified counselor, based on corresponding to the dimensional admission criteria. Additionally, a clinical impression of chemical dependency must be confirmed by the use of at least 3 cross-referenced diagnostic/assessment instruments tools.

(b) and (c) remain the same.

(d)---Structured-educational-presentation-

(d) 20-60 hours of therapeutic contact time per week which includes at least 4 skilled treatment services per day for at least five days per week. Skilled treatment services include but are not limited to: psychotherapy, individual, group, and family counseling, structured educational presentations (lectures), educational groups, occupational and recreational therapy.

(e) 10-20 14-25 hours of group therapy per week, consistent with the client's individual treatment plan. Group therapy hours may include structured group dynamics, group educational experiences, group step work or other interpersonal group processes. Regular Alcoholics Anonymous meetings are not counted as group therapy hours.

(f) The structured educational series shall be presented in a logical, progressive format, which contains the essential

elements for recovery. Lectures are offered 10 times per week.

(f) through (m) remain the same but will be relettered.

(3) through (5) remain the same.

(6) Client recordkeeping requirements specific to the inpatient care component shall include:

(a) and (b) remain the same.

~~(c) Social history;~~

(c) Admission note/utilization review which justifies the admission to this level of care based on compliance with dimensional admission criteria and results of diagnostic/assessment tools;

(d) Dimensional admission criteria checklist.

(e) Biopsychosocial assessment.

(d) through (h) remain the same but will be relettered.

(k) Continued stay/utilization review note which justifies continuation of inpatient or transfer based on dimensional criteria.

(i) remains the same but will be relettered.

(7) (a) remains the same.

(b) Quality assurance program is designed to identify problems by monitoring quality of care indicators and to initiate corrections in provider performance or to demonstrate that services provided are of optimal, achievable quality, and shall: To accomplish this, the process shall:

~~(i) Contain five (5) components which include: problem identification of important or potential problems; problem assessment based on criteria that relate to the essential aspects of client care; problem correction efforts designed to eliminate, in so far as possible, identified problems; problem correction monitoring that periodically monitors the results of corrective actions; and program monitoring that substantiates the effectiveness of the overall program;~~

(i) identify the most important aspects of services provided;

(ii) utilize indicators to systematically monitor these aspects of care;

(iii) evaluate services provided via indicators to identify problems or opportunities to further improve care; and

(iv) implement corrective action to resolve problems or improve care.

(c) Utilization and effectiveness review is a process of using predefined patient placement criteria to evaluate the necessity and appropriateness of allocated services and resources to ensure that the program's services are necessary, cost efficient and effectively utilized. Utilization and effectiveness reviews shall:

(i) Utilize patient placement criteria to justify the necessity of admissions, continued stay, transfer and discharge at timely intervals via a utilization review note.

(i) and (ii) remain the same but will be renumbered.

~~(iv) Ensure methods for identifying utilization related problems including analysis of the appropriateness and necessity of admission, continued stays, recidivism, supportive services, effectiveness of an aftercare plan based on verification of~~

referrals and results of follow-up, as well as utilization of the findings of related quality assurance activities and all relevant documentation.

(iv) remains the same but will be renumbered.

AUTH: 53-24-208 MCA

IMP: 53-24-208 MCA

20.3.214 INPATIENT - FREE STANDING CARE COMPONENT REQUIREMENTS (1) Patient placement criteria shall address the following:

(a) Persons requiring intensive residential care outside a hospital for the treatment of chemical dependency shall be admitted to this component. Persons needing detoxification shall not be admitted or retained, but shall be referred or transferred to an approved chemical dependency detoxification program or licensed hospital. Persons manifesting signs and symptoms of a condition that warrants acute medical care and/or medical detoxification shall not be admitted but shall be referred to a licensed hospital.

(b) Persons requiring this level of care must exhibit at least two of the following: a significant likelihood of withdrawal syndrome; previous history of having failed at attempts at outpatient withdrawal; the presence of a medical condition serious enough to warrant inpatient (non-hospital) management; the presence of isolated medical symptoms of concern; external mandates for inpatient treatment; a recent history of inability to function without some externally applied behavior controls; and significant denial of the severity of his/her own addiction. In addition, environmental factors likely to prevent a patient from maintaining treatment progress merits admission to this level of treatment.

(c) Dimensional admission criteria must demonstrate compliance with the preceding descriptions and encompass the dimensions delineated in 20.3.208(1)(i)(i)-(vi).

(d) Continued stay criteria shall be based on the above criteria to justify continuance at this level of care or transfer to a more or less restrictive treatment environment. A continued stay/utilization review must be documented at least once, preferably at 10 days.

(e) Discharge criteria shall be based on previous dimensional criteria to demonstrate successful completion of treatment or justification for an extension or transfer.

(2) Inpatient - free standing care services shall include:

(a) Admission and screening services in accordance with admission criteria which substantiate the appropriateness of treatment and include based on a comprehensive biopsychosocial assessment by a certified counselor, based on corresponding to the dimensional admission criteria. Additionally, a clinical impression of chemical dependency must be confirmed by the use of at least 3 cross-referenced diagnostic/assessment tools. Instruments:

(b) through (d) remain the same.

(e) ---Structured-educational-presentations-

(e) 20-60 hours of therapeutic contact time per week which includes at least 4 skilled treatment services per day for at least five days per week. Skilled treatment services include but are not limited to: psychotherapy, individual, group, and family counseling, structured educational presentations (lectures), educational groups, occupational and recreational therapy.

(f) Between 10 14 and 20 25 hours of group therapy per week, consistent with the client's individual treatment plan. Group therapy hours may include structured group dynamics, group educational experiences, group step work or other interpersonal group processes. Regular alcoholics anonymous meetings are not considered as group therapy hours.

(g) The structured educational series shall be presented in a logical, progressive format, which contains the essential elements for recovery. Lectures should be offered at least 10 times per week.

(h) through (m) remain the same but will be relettered.

(3) through (5) remain the same.

(6)(a) and (b) remain the same.

(c)---Social-history-

(c) Admission note/utilization review, which justifies the admission to this level of care based on compliance with dimensional admission criteria and results of diagnostic/assessment tools.

(d) Dimensional admission criteria checklist.

(e) Biopsychosocial assessment.

(d) through (g) remain the same but will be relettered.

(j) Continued stay/utilization review note which justifies continuation of inpatient treatment or transfer based on dimensional criteria.

(h) remains the same but will be relettered.

(7) Program effectiveness and quality assurance efforts which include individual case review, quality assurance program, and utilization review.

(a) remains the same.

(b) Quality assurance program is designed to identify problems by monitoring quality of care indicators and to initiate corrections in provider performance or to demonstrate that services provided are of optimal achievable quality. To accomplish this, the process shall:

(i) identify the most important aspects of services provided;

(ii) utilize indicators to systematically monitor these aspects of care;

(iii) Evaluate services provided via indicators to identify problems or opportunities to further improve care; and

(iv) implement corrective action to resolve problems or improve care.

(c)(b) Utilization and effectiveness review is a process of using predefined patient placement criteria to evaluate the necessity and appropriateness of allocated services and resources to ensure that the program's services are necessary, cost efficient and effectively utilized. Utilization and

effectiveness reviews shall:

(i) Utilize patient placement criteria to justify the necessity of admissions, continued stay, transfer and discharge at timely intervals via a utilization review note.

(i) and (ii) remain the same but will be renumbered.

(iv) Ensure methods for identifying utilization related problems including analysis of the appropriateness and necessity of admission, bed utilization, continued stays, recidivism, completion ratios, supportive services and delays in the provision of supportive services, effectiveness of an aftercare plan based on verification of referrals and results of follow-up, as well as utilization of the findings of related quality assurance activities and all current relevant documentation.

(iv) remains the same but will be renumbered.

AUTH: 53-24-208 MCA

IMP Sec. 53-24-208 MCA

20.3.215 INTERMEDIATE CARE (TRANSITIONAL LIVING) COMPONENT REQUIREMENTS (1) Patient placement criteria shall address the following:

(a) Persons who have recently received chemical dependency inpatient services and require a moderately structured living arrangement shall be admitted to this component. This level of care provides a transitional phase, which includes at least 5 contact hours per week in a supervised setting where vocational rehabilitation, occupational training, education or employment are encouraged.

(b) Persons needing detoxification shall not be admitted or retained but shall be referred or transferred to an approved chemical dependency detoxification program or licensed hospital. Persons manifesting signs and symptoms of a condition that warrants acute medical care shall not be admitted but shall be referred to a licensed hospital.

(c) Dimensional admission criteria must demonstrate compliance with the preceding descriptions and encompass the dimensions delineated in 20.3.208(1)(i)-(vi).

(d) Continued stay criteria shall be based on the above criteria to justify continuance at this level of care or transfer to a more or less restrictive treatment environment. A continued stay/utilization review must be documented at least once, preferably at 6 weeks.

(e) Discharge criteria shall be based on previous dimensional criteria to demonstrate successful completion of treatment or justification for an extension or transfer. Note: The Alcohol and Drug Abuse Division will develop sample criteria for this component.

(2) through (5) remain the same.

(6) Client recordkeeping and reporting requirements specific to the intermediate components shall include:

(a) and (b) remain the same.

(c) Social history

(c) Admission note/utilization review, which justifies the admission to this level of care based on compliance with dimensional/admission criteria.

- (d) Biopsychosocial assessment.
- (e) Dimensional admission criteria checklist.
- (d) through (g) remain the same but will be relettered.
- (j) Continued stay/utilization review note which justifies continuation of intermediate care or transfer based on dimensional criteria.
- (h)k Discharge summary that includes compliance with dimensional criteria, an account of the client's response to treatment which reviews the treatment plan and documents the client's progress in accomplishing the treatment goals and an aftercare plan.
- (7) Program effectiveness and quality assurance efforts which include individual case review and program utilization and effectiveness review.
 - (a) Remains the same.
 - (b) Program effectiveness: review is a process of using patient placement criteria to evaluate the necessity and appropriateness of allocated services and resources to ensure that the program's services are necessary, cost efficient and effectively utilized. Utilization and effectiveness reviews shall:
 - (i) Utilize patient placement criteria to justify the necessity of admission, continued stay, transfer, discharge at timely intervals, and document via a utilization review note.
 - (ii) Be designed to achieve cost efficiency, increase effective utilization of the program's services, and ensure the necessity of services provided.
 - (i) iii Shall ensure the collection, development analysis and utilization of information which demonstrates program effectiveness. This shall include, but not be limited to, completion of goals and objectives, bed utilization, length of stay, completion ratios, employment and/or vocational/educational placements and follow-up data.

AUTH: 53-24-208 MCA

IMP Sec. 53-24-208 MCA

20.3.216 OUTPATIENT COMPONENT REQUIREMENTS (1) Patient placement criteria shall address the following:

- (a) Persons able to receive services on a non-residential and less intensive basis shall be admitted to this component. Persons needing detoxification, inpatient or intermediate care services shall be referred to an appropriate treatment program. Persons manifesting signs and symptoms of a condition that warrants acute medical care shall not be admitted but shall be referred to a hospital.
- (b) Persons should demonstrate stable physical or psychiatric conditions, sufficient motivation, and supportive environmental factors to participate in this component. This level of care involves weekly sessions usually supplemented by involvement in self help groups. The intensity typically does not exceed 9 contact hours per week.
- (c) Persons who have recently completed a more intensive level of care may utilize this level for aftercare services. This level of care also may be appropriate for protracted

evaluation of patients who require some additional time to make a commitment to a more intensive recovery effort.

(d) Dimensional admission criteria must demonstrate compliance with the preceding descriptions and encompass the dimensions delineated in 20.3.208(1)(i)-(vi).

(e) Continued stay criteria shall be based on the above criteria to justify continuance at this level of care or transfer to a more restrictive treatment environment. A continued stay/utilization review must be documented at 45 days.

(f) Discharge criteria shall be based on previous dimensional criteria to demonstrate successful completion of treatment or justification for an extension or transfer.

(2) Outpatient services shall include:

(a) Admission and screening services in accordance with dimensional admission criteria. Services which are provided on a regularly scheduled basis to clients residing outside the program which substantiates the appropriateness of treatment based on a biopsychosocial assessment corresponding to the dimensional admission criteria via utilization review.

(b) through (d) remain the same.

(e) Assessments and evaluations shall be conducted by a certified or-eligible chemical dependency counselor based on at least 3 cross-referenced diagnostic instruments tools.

(f) A minimum of 2.5 counseling contacts per month.

(g) Treatment plan assessment/staffing every 45 days.

(3) and (4) remain the same.

(5) Client recordkeeping and reporting requirements specific to the outpatient care component shall include:

(a) and (b) remain the same.

(c) --Social history--

(c) Admission note/utilization review which justifies the admission to this level of care based on compliance with dimensional admission criteria are results of diagnostic tools, if applicable.

(d) Biopsychosocial assessment.

(e) Dimensional admission criteria checklist.

(d) and (e) remain the same but will be relettered.

(h) (f) Individualized treatment plan which is reviewed and updated at least every 90 45 days and responds to ARM 20.3.208(g).

(i) (g) Remains the same.

(j) (h) Discharge summary that includes: compliance with dimensional criteria or transfer, an account of the client's response to treatment which reviews the treatment plan and documents the client's progress in accomplishing treatment goals and a follow-up plan.

(6) Program effectiveness and quality assurance efforts which include individual case review and utilization and program effectiveness review.

(a) Remains the same.

(i) Be designed to ensure that the care provided to clients is evaluated and updated every 90 45 days, according to the needs of each client.

(ii) Remains the same.

(b) Utilization and program effectiveness - review is a process of using patient placement criteria to evaluate the necessity and appropriateness of allocated services and resources to ensure that the programs services are necessary, cost efficient and effectively utilized. Utilization and effectiveness reviews shall:

(i) Utilize patient placement criteria to justify the necessity of admissions, continued stay, transfer and discharge at timely intervals and to document justification via a utilization review note.

(i) ii Shall Ensure the collection, analysis development and utilization of information which demonstrates program effectiveness. This shall include, but not be limited to, completion of goals and objectives, average monthly caseloads, average contacts per client per month, completion ratios, employment and follow-up data.

AUTH: 53-24-208 MCA

IMP. SEC. 53-24-208 MCA

3. The new rules as proposed provide as follows:

RULE I DAY TREATMENT COMPONENT REQUIREMENTS

(1) Patient placement criteria shall be developed and address the following:

(a) Persons requiring a more intensive treatment experience than intensive outpatient treatment but do not require inpatient care. This level of care provides at least 5 hours of contact time per day for at least 4 days per week, for a total of 20 - 40 hours per week.

(b) Persons admitted to this level of care require the presence of only minimal, if any, symptoms of substance withdrawal; the ability to safely respond to and benefit from ambulatory detoxification, if necessary; the absence of significant or unstable physical or psychiatric complicating conditions; the presence of a current impending episode of loss of control of chemical use or a current threat of loss of control of chemical use in a previously successful patient. Due to significant life disruptions and/or lack of social supports the patient requires an intensive outpatient treatment free from the distractions of work, school, family, and/or social problems to focus on recovery. Although the patient may acknowledge a need for change, ambivalence about treatment and problems in several dimensions require the resources of a multidisciplinary team.

(c) Dimensional admission criteria shall be developed to demonstrate compliance with the preceding descriptions and encompass dimensions delineated in 20.3.208(1)(1)(i)-(vi).

(d) Continued stay criteria shall be developed based on the above criteria to justify continuance at this level of care or transfer to a more or less restrictive treatment environment. A continued stay/utilization review shall be documented at least once, preferably at 10 days.

(e) Discharge criteria shall be developed based on the previous dimensional criteria to demonstrate successful completion of treatment or justification for an extension or

transfer.

(2) Day treatment services will be offered within an inpatient setting and all of the corresponding standards pursuant to inpatient care will be applied with the exception of 24 hour supervision and residential requirements.

AUTH: 53-24-208 MCA

IMP: 53-24-208 MCA

RULE II INTENSIVE OUTPATIENT TREATMENT COMPONENT REQUIREMENT (1) Patient placement criteria shall be developed and address the following:

(a) Persons should have only minimal (if any) continuing symptoms of intoxication or withdrawal; the presence of stable physical and psychiatric conditions (if any); a recent history of behavioral deterioration with increasing life impairment. The client requires structured outpatient counseling involving 10 - 30 hours of program contact time per week in order to provide the necessary intensity of services without an inpatient placement. The client must be sufficiently accepting of treatment and have an environment which is adequate to support recovery efforts. This level of care affords the client the opportunity to interact with the real world environment while still benefiting from a programmatic structured therapeutic milieu.

(b) Persons needing detoxification, inpatient, or intermediate care services shall be referred to an appropriate treatment program. Persons manifesting signs and symptoms of a condition that warrants acute medical care shall not be admitted but referred to a hospital.

(c) Dimensional admission criteria shall demonstrate compliance with the preceding descriptions and encompass the dimensions delineated in 20.3.208(1)(i)-(vii).

(d) Continued stay criteria shall be developed based on the above criteria to justify continuance at this level of care or transfer to a more or less restrictive treatment environment. A continued stay/utilization review shall be documented at three weeks following admission or as needed.

(e) Discharge criteria shall be developed based on previous dimensions to demonstrate successful completion of treatment which includes 90% completion of all required sessions or justification for an extension or transfer.

(2) Intensive outpatient services shall include:

(a) Admission and screening in accordance with dimensional admission criteria which substantiate the appropriateness of treatment based on a biopsychosocial assessment corresponding to the dimensional admission criteria via utilization review. Additionally, at least 3 cross-referenced diagnostic/assessment tools confirming a clinical impression of chemical dependency. This assessment must be conducted by a certified chemical dependency counselor.

(b) Structured outpatient counseling equaling 10-30 hours per week consistent with the individualized treatment plan. The content of this service must be similar to inpatient treatment and offer the same foundations for recovery.

(c) A minimum of 2 skilled treatment services per day at least 3 times per week. One of the skilled treatment services must be group counseling of at least 2-3 hours in duration. Skilled treatment services may include group counseling, individual counseling, family counseling, and educational presentations (lectures).

(d) The structured educational series shall be presented in a logical, progressive format which contains the essential elements necessary for recovery, e.g. a thorough approach to the first five steps of A.A..

(e) One session of documented individual counseling per week with a certified or eligible chemical dependency counselor.

(f) Other support services as necessary.

(g) Availability of professional consultation including medical.

(h) Direct affiliation with more intensive levels of care. This may be offered as part of the overall program or via contract/agreement.

(i) Encouragement of clients to attend A.A. twice weekly.

(j) Periodic assessment/review and treatment plan update every two weeks.

(k) Provision of family services as appropriate.

(l) Referral, transfer, discharge, aftercare, and follow-up services that ensure a continuity of care.

(3) Staff requirements:

(a) Counseling staff shall be certified or eligible and trained in the field of chemical dependency counseling. Counselors conducting the IOP program shall demonstrate an ability to work with clients, a knowledge of the etiology of chemical dependency, and expertise in group skills.

(b) Availability of professional counseling services 24 hours per day, 7 days per week.

(c) The program shall provide sufficient staff to provide for all aspects of this service.

(d) Staff shall be familiar with community resources for referral including medical, social, vocational, mental health, spiritual, alcoholics anonymous and etc.

(4) Required policies and procedures: The program shall develop policies, procedures and plans to address the above listed services, staff requirements and criteria.

(5) Client recordkeeping and reporting requirements specific to the intensive outpatient component shall include:

(a) ADIS admission/discharge forms;

(b) Date of admission;

(c) Admission note/utilization review, which justifies the admission to this level of care based on compliance with dimensional admission criteria and results of diagnostic tools.

(d) Biopsychosocial assessment;

(e) Dimensional admission criteria checklist;

(f) Documentation of all supportive service contacts;

(g) Individualized treatment plan, which is reviewed and updated every 2 weeks and responds to 20.3.208(h) ARM.

(h) Continued stay/utilization review note which justifies continuation of IOP or transfer based on dimensional criteria;

(i) Progress notes written at a minimum of 3 times a week, reflecting required services i.e. 10-30 hours per week and responding to 20.3.208(h) ARM.

(j) Discharge summary that includes: compliance with dimensional criteria or transfer; an account of the clients response to treatment; a review of the treatment plan and corresponding progress; reason for discharge and aftercare plan.

(5) Program Effectiveness and Quality Assurance shall include:

(a) Individual case review is a procedure for monitoring a client's progress and is designed to ensure the adequacy and appropriateness of the services provided to that client and shall:

(i) Be designed to ensure that the care provided to clients is evaluated and updated every month, according to the needs of each client.

(ii) Be accomplished through reviews, which all involved treatment staff attend.

(b) Utilization and effectiveness review is a process of using patient placement criteria to evaluate the necessity and appropriateness of allocated services and resources to ensure the program's services are necessary, cost efficient and effectively utilized. Utilization and effectiveness reviews shall:

(i) Utilize patient placement criteria to justify the necessity of admissions, continued stay, transfer and discharge at timely intervals and to document justification via a utilization review note.

(ii) Be designed to achieve cost efficiency, increase effective utilization of program's services, and ensure the necessity of services provided;

(iii) Address under-utilization and inefficient scheduling as well as over-utilization of the program's resources.

(iv) Ensure methods for identifying and monitoring utilization and effectiveness related problems including caseload, completion ratios, frequency of services, and delays in the provision of services, effectiveness of the aftercare plan based on verification of referrals and results of follow-up, as well as utilization of the findings of related quality assurance activities and all current relevant documentation.

AUTH: 53-24-208 MCA


IMP: 53-24-208 MCA

4. The purpose of the rule revisions is to encourage the most appropriate, effective and cost efficient utilization of services via patient placement criteria and expanded utilization review, ensure quality and appropriateness of services statewide, offer a full continuum of care, and require adequate supervision of employees.

5. Interested parties may submit their data, views, or arguments concerning the proposed amendments in writing to the Legal Unit, Department of Corrections and Human Services, 1539 11th Avenue, Helena, Montana 59620, no later than May 31, 1992.

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 the Legal Unit, Department of Corrections and Human Services, 1539 11th Avenue, Helena, Montana 59620, no later than May 31, 1992.

6. No public hearing is contemplated, but if the agency receives requests for a public hearing on the proposed amendment from either ten percent, or twenty-five persons, whichever is less of those persons who are directly affected by the proposed amendment, or from the administrative code committee; from a governmental agency or subdivision or from an association having no less than twenty-five members who will be directly affected, a public hearing will be held at a later date. Notice of such hearing will be published in the Montana administrative register. The percentage of those persons directly affected has been determined to be 25 based on the number of counselors, 250, currently employed in approved chemical dependency treatment programs.



CURT CHISHOLM, Director
Department of Corrections and
Human Services



JIM OBIE
Rule Reviewer

Certified to the Secretary of State April 10, 1992.

BEFORE THE DEPARTMENT OF CORRECTIONS AND
HUMAN SERVICES OF THE STATE OF MONTANA

In the matter of the proposed) NOTICE OF PROPOSED AMEND-
amendments of Rules 20.14.501) MENTS OF RULES 20.14.501
and 20.14.503 through) AND 20.14.503 THROUGH
20.14.512, ARM.) 20.14.512, ARM.
)
Certification of Mental Health) NO PUBLIC HEARING CON-
professional persons.) TEMPLATED.

TO: ALL INTERESTED PERSONS

1. On June 1, 1992, the Department of Corrections and Human Services proposes to amend Rules 20.14.501 and 20.14.503 through 20.14.512, ARM to replace "limited" professional person certification with "facility" certification which would require defined training and evaluation and would be specific to the employing mental health facility.

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

20.14.501 PROFESSIONAL PERSON CERTIFICATION

(1)(a) and (b) remain the same.

(c) set limits of authority and responsibility for persons who have obtained full certification and for persons who have obtained facility limited certification.

AUTH: 53-21-106, MCA

IMP: 53-21-106, MCA

20.14.503 DEFINITIONS (1) and (2) remain the same.

~~(3)--Limited mental health certification means a level of certification which qualifies the person so certified to act as a mental health professional person only in those areas described in ARM 20.14.511.~~

(3) Facility mental health certification means a level of certification which qualifies the person so certified to act as a mental health professional person only in the facility for which the person is certified and only with those privileges described in ARM 20.14.511.

(4) remains the same.

(5) Clinical mental health experience means work experience evaluating persons for mental illness and providing direct mental health treatment to a caseload which includes persons who are seriously impaired due to mental illness. Such experience must take place in an agency, organization, or unit within an organization in which the primary purpose is the treatment of mental disorders.

(6) Certification committee means the committee established to rule on applications for certification. The committee consists of two members appointed by the director of the department of institutions corrections and human services, two members appointed by the director of the department of social and rehabilitation services and a chairman appointed by the governor.

At least one member of the committee must have full mental health certification, and--at--least--one--member--must--have--full developmental disabilities certification.

(7) Approved training program means a course of instruction and supervised clinical experience planned and conducted by the employing facility and approved by the department of corrections and human services and by the certification committee. An approved training program shall include a minimum of six months of full-time clinical experience in the facility and shall include instruction on Montana law; these rules; and facility policies, practices, and procedures as they relate to the privileges described in ARM 20.14.511. An approved training program must be supervised by a professional person with full mental health certification, and that professional person must review each trainee's clinical performance at least each week. The clinical experience component of the approved training program must be directly supervised by a professional person with either full or facility certification and must include instruction in, observation of, and supervised participation in all facility procedures involving or requiring the privileges specified in ARM 20.14.511.

(8) Clinical competency evaluation means a clinic-based procedure and written instrument for the assessment of an applicant's conceptual understanding of and competency in using the materials and skills presented in the approved training program. A clinical competency evaluation shall be designed and conducted by the facility and must be approved as to form and content by the department of corrections and human services and by the certification committee. The clinical competency evaluation must be supervised by a professional person with full mental health certification who will endorse the individual's application for facility mental health certification upon successful performance in the evaluation.

(9) Facility means a mental health facility as defined in 53-21-102(7), MCA.

AUTH: 53-21-106, MCA

IMP: 53-21-106, MCA

20.14.504 APPLICATION PROCESS (1) Application for professional person certification will be made on forms provided by the department of institutions corrections and human services.

(2) An applicant for full mental health certification must submit documentation of academic training, documentation of clinical mental health experience, letters of reference testifying to clinical competence, and an endorsement by a professional person with full mental health certification indicating that the applicant fully understands the responsibilities of a professional person. In addition, an applicant for full mental health certification must successfully complete a written examination covering knowledge of Title 53, Chapter 21, MCA and the mental health services in the state to include the role of, and treatment services provided at, the Montana State Hospital.

(3) An applicant for facility mental health certification must submit documentation of academic training, documentation of

successful completion of the employing facility's approved training program, and an endorsement from the professional person with full mental health certification who directly supervised the applicant's clinical competency evaluation.

(3)(4) The certification committee will meet as necessary, but no fewer than four times per year, to review applications applicants. Applicants will be notified in writing of the decision of the committee. The certification committee may grant certification, deny certification, grant certification conditioned upon a passing score on the written examination for full mental health certification, or request additional information from the applicant.

(4)(5) The certification committee has the authority to rule on the relevancy, adequacy and appropriateness of the educational and experiential-background of applicants as they relate to the requirements contained in 20.14.508 and 20.14.510.

(5) remains the same, but will be renumbered.

AUTH: 53-21-106, MCA

IMP: 53-21-106, MCA

20.14.505 EXPIRATION AND RENEWAL OF CERTIFICATION

(1) Remains the same.

(2) The professional person will be notified at least thirty (30) days prior to the expiration date and will be provided a renewal form to record the information required by the certification committee.

(3) The certification committee will renew full mental health certification upon submission of proof that the individual continues to perform satisfactorily within Montana in direct treatment of mentally ill persons or direct supervision of mental health treatment programs and evidence that continuing education, training, or instruction relevant to the exercise of professional person privileges and duties was received during the current certification period.

(4) The certification committee will renew facility mental health certification upon submission of proof that the individual continues to perform satisfactorily in direct treatment of mental illness in the facility for which the person is certified and evidence from the employing facility that continuing education, training, or instruction relevant to the privileges and duties of a professional person with facility certification was received during the current certification period.

AUTH: 53-21-106, MCA

IMP: 53-21-106, MCA

20.14.506 REVOCATION OF CERTIFICATION

(1)(a) through (c) remains the same.

(d) Providing an endorsement for an applicant for facility mental health certification without personal knowledge of the applicant's successful performance on the clinical competency evaluation.

(2) Remains the same.

AUTH: 53-21-106, MCA

IMP: 53-21-106, MCA

20.14.507 APPEAL PROCESS (1) Any action of the certification committee concerning certification denial or revocation may be appealed to the director of the department of institutions corrections and human services. All findings and actions of the director shall be binding on the certification committee.

(2) The notice of appeal shall be directed to the director of the department of institutions corrections and human services who may appoint a hearings officer.

(3) through (5) remains the same.

(6) If any party to the appeal who is dissatisfied with the written decision of the director, he may appeal to the appropriate district court.

AUTH: 53-21-106, MCA

IMP: 53-21-106, MCA

20.14.508 REQUIREMENTS FOR FULL MENTAL HEALTH CERTIFICATION (1) Applicants for full mental health certification must demonstrate successful performance as mental health clinicians, a thorough understanding of the statutory responsibilities of a mental health professional person and knowledge of the full range of mental health services in Montana. In addition, to obtain full mental health certification a professional person must meet one of the following minimum qualification:

(a) have earned a doctoral degree from an accredited college or university in a field of study which is clearly identified as preparing the student for the clinical treatment of mentally ill persons plus and have at least six months of full-time clinical mental health experience following receipt of the doctoral degree; or

(b) have earned a master's degree in social work from an accredited college or university in a curriculum which included at least three courses in therapeutic techniques for treating mentally ill persons plus and have at least one year of full-time clinical mental health experience following receipt of the master's degree; or

(c) have earned a master's degree in clinical or counseling psychology from an accredited college or university plus and have at least one year of full-time clinical mental health experience following receipt of the master's degree; or

(d) have earned a master's degree in psychiatric nursing from an accredited college or university plus and have at least one year of full-time clinical mental health experience following receipt of the master's degree; or

(e) have earned a master's degree in a human services field other than social work, clinical psychology, counseling psychology, or psychiatric nursing from an accredited college or university in a curriculum with a preponderance of course work and practicum experience in a clinical mental health area plus and have at least two years of full-time clinical mental health experience following receipt of the master's degree; or

(f) be a registered nurse with a bachelor's degree in nursing from an accredited college or university plus and have five years of full-time clinical mental health experience following receipt of the bachelor's degree.

(2) Applicants with a master's degree in a field which is relevant to some aspect of treatment of the mentally ill, plus and who have at least 5 five years of full-time clinical mental health experience may be granted full mental health certification based upon a special review by the certification committee of the individual's clinical mental health experience and letters of reference testifying to clinical competence. Such applicants must demonstrate a degree of competence and knowledge which is, in the opinion of the certification committee, equivalent to that of individuals with the training and experience listed above.

AUTH: 53-21-106, MCA

IMP: 53-21-106, MCA

20.14.509 PRIVILEGES OF FULL MENTAL HEALTH CERTIFICATION

- (1)(a) through (c) remains the same.
(d) ~~supervise treatment plans of inpatients;~~
(e) ~~authorize restrictions of patients' rights when such restrictions are necessary to achieve treatment goals;~~
(f) ~~authorize restraint or isolation;~~
(g) ~~supervise non-professional staff;~~
(d)(h) order the discharge of a patient during, or at the end of, the initial commitment period;
(e)(i) request a court-ordered release to alternative treatment;
(f)(j) request a conditional release from a mental health facility;
(g)(k) request the readmission of a conditionally released patient;
(h)(i) review and initial, within 24 hours, summaries of extraordinary incidents involving patients;
(i) supervise approved training programs and clinical competency evaluations;
(j) perform all the privileges specified in 20.14.511 (1).
(2) Remains the same.

AUTH: 53-21-106, MCA

IMP: 53-21-106, MCA

20.14.510 REQUIREMENTS FOR LIMITED FACILITY MENTAL HEALTH CERTIFICATION (1) Applicants for limited facility mental health certification must be employed by the facility as a trainee for a position requiring the exercise of the privileges specified in ARM 20.14.511. They must also demonstrate successful performance as mental health clinicians; clinical competency and a thorough understanding of the statutory responsibilities of a professional person with facility limited mental health certification. This can be accomplished only by successful completion of the facility's approved training program and satisfactory performance on the clinical competency evaluation. In addition, a professional person with facility limited mental health certification must have earned meet one of the following--minimum qualifications:

- (a) ~~doctoral degree from an accredited college or university in a field of study which is clearly identified as preparing the student for the clinical treatment of mentally ill~~

persons plus at least 3 months of full-time clinical mental health experience following receipt of the doctoral degree; or

(b) master's degree in social work from an accredited college or university system including at least three courses in therapeutic techniques for treating mentally ill persons plus at least 3 months of full-time clinical mental health experience following receipt of the master's degree; or

(c) master's degree in clinical or counseling psychology from an accredited college or university plus at least 3 months of full-time clinical mental health experience following receipt of the master's degree; or

(d) master's degree in psychiatric nursing from an accredited college or university plus at least 3 months of full-time clinical mental health experience following receipt of the master's degree; or

(e) master's degree in a human services field other than social work, clinical psychology, counseling psychology or psychiatric nursing from an accredited college or university with a preponderance of course work and practicum experience in a clinical mental health area plus at least 3 months of full-time clinical mental health experience following receipt of the master's degree; or

(f) master's degree from an accredited college or university in a human services field which is relevant to some aspect of treatment of the mentally ill plus at least 3 months of full-time clinical mental health experience following receipt of the master's degree; or

(a)(g) licensure as a registered nurse plus one year of full-time clinical mental health experience following licensure as a nurse; or

(h) bachelor's degree in psychology or social work from an accredited college or university plus at least three years of full-time clinical mental health experience following receipt of the bachelor's degree; or

(b)(i) a bachelor's degree or graduate degree from an accredited college or university in a field other than psychology or social work, which is relevant directly related to some aspect of treatment of the mentally ill plus at least five years of full-time clinical mental health experience.

AUTH: 53-21-106, MCA

IMP: 53-21-106, MCA

20.14.511 PRIVILEGES OF LIMITED FACILITY MENTAL HEALTH CERTIFICATION (1) A professional person with limited facility mental health certification is qualified to:

(a) supervise approve and monitor the implementation of treatment plans of inpatients in accordance with the facility's written policies;

(b) authorize restriction of a patient's rights when such restrictions are necessary to achieve treatment goals in accordance with the facility's written policies;

(c) authorize and monitor restraint or isolation seclusion of inpatients in accordance with the facility's written policies;

(d) supervise non-professional staff in accordance with

the facility's written policies;

(e) supervise the day-to-day clinical experience of a trainee under the facility's approved training program.

(2) Remains the same.

AUTH: 53-21-106, MCA

IMP: 53-21-106, MCA

20.14.512 CONTINUATION OF CERTIFICATION Persons who are certified mental health professional persons under ARM-46-8-701-704 as of the date of final adoption of these rules will maintain full mental health certification until the expiration of their certification. They will be notified at least 30 days prior to the expiration date and given an opportunity to request renewal of certification. The credentials of those individuals wishing to maintain certification will be reviewed by the certification committee and full or limited certification will be granted based upon the credentials. Individuals dissatisfied with this determination may appeal pursuant to ARM-28-14-507. A person who is certified as a limited mental health professional person as of the date of final adoption of these rules will be granted facility mental health certification for the facility in which they are employed on that date until the expiration date of their present certification or for one year, whichever is greater. To continue facility mental health certification thereafter the previously certified individual must meet the requirements of 20.14.510. The certification committee may, upon request of the previously certified individual and concurrence of the facility's superintendent or director, waive the requirement of completion of the facility's approved training program.

AUTH: 53-21-106, MCA

IMP: 53-21-106, MCA

3. Modifications are proposed to the rule governing certification of mental health professional persons that:

(1) Replace "limited" certification with "facility" certification. Facility certification will be valid only for the specific facility in which it is obtained. People now holding limited certification will be "grandfathered" with facility certification in their present place of employment for a limited time until they can demonstrate their competency. Facility certification will be obtainable only by completing a department-approved and facility-administered competency assessment. Minimum formal education requirements are retained but there are no minimum experience requirements beyond the training program.

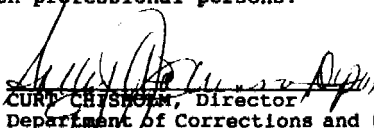
(2) Make some substantive changes with respect to professional persons with full certification. They are given the responsibility of supervising training programs for facility certification and for attesting to the assessment of facility certification applicants. An additional reason for revocation of certification is added that relates to that endorsement. Added requirements for recertification are that the person be working in the state and that they document continuing education.

(3) Make miscellaneous changes to update the name of the department; to make these rules consistent with evolved practices, current usage, and other administrative rules; to improve their clarity; and to correct errors.

4. Interested parties may submit their data, views, or arguments concerning the proposed amendments in writing to the Legal Unit, Department of Corrections and Human Services, 1539 11th Avenue, Helena, Montana 59620, no later than May 31, 1992.

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 the Legal Unit, Department of Corrections and Human Services, 1539 11th Avenue, Helena, Montana 59620, no later than May 31, 1992.

6. No public hearing is contemplated, but if the agency receives requests for a public hearing on the proposed amendment from either ten percent, or twenty-five persons, whichever is less of those persons who are directly affected by the proposed amendment, or from the administrative code committee; from a governmental agency or subdivision or from an association having no less than twenty-five members who will be directly affected, a public hearing will be held at a later date. Notice of such hearing will be published in the Montana administrative register. The percentage of those persons directly affected has been determined to be 23 based on the number of persons, 234, currently certified as mental health professional persons.


CURT CHYNOWETH, Director
Department of Corrections and
Human Services


JAMES B. OBIE
Rule Reviewer

Certified to the Secretary of State April 10, 1992.

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PUBLIC
amendment of Montana's	)	HEARING ON PROPOSED
prevailing wage rates,	)	AMENDMENTS OF PREVAILING
pursuant to Rule 24.16.9007	)	WAGE RATES-BUILDING
		CONSTRUCTION

TO: All Interested persons:

1. On Friday, May 22, 1992, at 1:30 p.m. a public hearing will be held in the Auditorium, Department of Transportation, 2701 Prospect, Helena, Montana, to consider proposed amendments to the prevailing wage rates.

2. The Department of Labor and Industry hereby proposes to adopt and incorporate by reference the "State of Montana Prevailing Wage Rates-Building Construction" which sets forth the building construction prevailing wage rates proposed to be effective July 1, 1992. A copy of the prevailing wage rates may be obtained from the Research and Analysis Bureau, Research, Safety and Training Division, Department of Labor and Industry, P.O. Box 1728, Helena, Montana 59624.

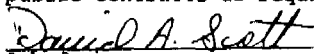
3. Interested parties may submit their data, views, or comments, either orally or in writing, at the hearing. Written data, views, or comments may also be submitted by May 29, 1992, to the Research and Analysis Bureau, Research, Safety and Training Division, Department of Labor and Industry, P.O. Box 1728, Helena, Montana 59624.

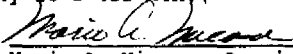
4. The Hearings Unit of the Legal Services Division, Department of Labor and Industry, P.O. box 1728, Helena, Montana 59624, has been designated to preside over and conduct the hearing.

5. AUTH: 18-2-431 and 2-4-307 MCA;

IMP: 18-2-401 through 18-2-432 MCA.

6. Reason: Pursuant to 18-2-402 MCA the Department updates the standard prevailing rate of wages for building construction applicable to all prevailing wage rate districts throughout the State of Montana. Implementation of current wage levels by this rule is utilized for inclusion in all public contracts as required by 18-2-422 MCA.


Rule Reviewer


Mario A. Micone, Commissioner
Department of Labor & Industry

Certified to the Secretary of State: April 20, 1992

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
BEFORE THE BOARD OF NATURAL RESOURCES AND CONSERVATION

In the matter of the proposed	)	NOTICE OF PUBLIC HEARING
amendments of ARM 36.12.101,	)	ON PROPOSED AMENDMENTS OF
36.12.102, and 36.12.103 per-	)	ARM 36.12.101 DEFINITIONS,
taining to definitions, forms,	)	36.12.102 FORMS, AND
and fees	)	36.12.103 APPLICATION
	)	SPECIAL FEES

TO: ALL INTERESTED PERSONS

1. A public hearing will be held by the Board of Natural Resources and Conservation on May 28, 1992 at 10:00 AM in the Granite Room at the Sheraton Hotel, 27 N 27th St., in Billings, MT to consider the proposed amendments to the above stated rules.

2. The proposed amendments will read as follows: (new matter underlined, deleted matter interlined)

36.12.101 DEFINITIONS Unless the context requires otherwise, to aid in the implementation of the Montana Water Use Act and as used in these rules:

(1) . . .

(3) "Surface water" means all water of the state at the surface of the ground, including but not limited to any river, stream, creek, ravine, coulee, undeveloped spring, lake, and other natural surface source of water regardless of its character or manner of occurrence, and diversions thereof and the impoundment of flood, seepage, and waste waters in a reservoir.

(4) "Spring" means a hydrologic occurrence of water involving the natural flow of water originating from beneath the land surface and arising to the surface of the ground. A developed spring is groundwater if some physical alteration of its natural state flow is increased by some development occurs at its point of extrusion discharge from the ground, such as simple excavation, cement encasement, or rock cribbing. An undeveloped spring is surface water if no development occurs at its point of discharge and the appropriation is made from the waters flowing on the surface of the ground.

(5) . . .

(6) "Temporary emergency appropriation" means the temporary beneficial use of water necessary to protect lives or property by reason of fire, storm, earthquake, or other disaster or unforeseen combination of circumstances which call for immediate action. An appropriation made necessary due to drought conditions is not a temporary emergency appropriation.

(7) . . .

Auth: Sec. 85-2-113, MCA Imp: Sec. 85-2-113, 306, MCA

36.12.102 FORMS The following necessary forms for implementation of the act and these rules are available from

the Department of Natural Resources and Conservation, 1520 East 6th Avenue, Helena, Montana, the water resources regional offices or the county clerk and recorders offices. The department may revise as necessary, the following forms to improve the administration of these rules and applicable water laws:

- (1) Form No. 600 "Application for Beneficial Water Use Permit" (for groundwater developments in excess of 35 gpm or 10 acre-feet per year and surface water appropriations)
- (2) Form No. 600A "Supplement to Application for Beneficial Water Use Permit" (for appropriations of less than 4,000 acre-feet and 5.5 cfs)
- (3) Form No. 600B "Supplement to Application for Beneficial Water Use Permit" (for appropriations of 4,000 acre-feet or more and 5.5 cfs or more)
- (4) Form No. 600ACF "Supplement to Application for Beneficial Water Use Permit - Upper Clark Fork River Basin Groundwater Appropriations" (for appropriations of less than 4,000 acre-feet and 5.5 cfs)
- (5) Form No. 600BCF "Supplement to Application for Beneficial Water Use Permit - Upper Clark Fork River Basin Groundwater Appropriations" (for appropriations of 4,000 acre-feet or more and 5.5 cfs or more)
- (6) (16)
- (7) (17) Form No. 602 "Notice of Completion of Groundwater Development" (for groundwater developments with a maximum use of 35 gpm or less not to exceed 10 acre-feet per year less-than-100-gpm)
- (8) (18)
- (9) (19) Form No. 604 "Certificate of Water Right" (for groundwater of 35 gpm or less not to exceed 10 acre-feet per year less-than-100-gpm)
- (10) (20)
- (11) (21)
- (12) Form No. 606A "Supplement to Application for Change Appropriation Water Right" (for any change in point of diversion or place of storage and for changes in purpose of use or place of use of less than 4,000 acre-feet and 5.5 cfs)
- (13) Form No. 606B "Supplement to Application for Change Appropriation Water Right" (for changes in purpose of use or place of use of 4,000 or more acre-feet a year and 5.5 cfs or more)
- (14) Form No. 606ASW "Supplement to Application For Change of Appropriation Water Right" (for Salvage Water)
- (15) Form No. 606T "Temporary Change Supplement to Application for Change of Appropriation Water Right"
- (16) (22)
- (17) (23)
- (18) Form No. 608A "Addendum to Water Right Transfer Certificate for Apportioned Water Right"
- (19) (24)
- (20) (25) Form No. 612 "Notice and Statement of Opinion"
- (21) (26)
- (22) (27) Form No. 614 "Statement-of-Conditional Agreement" "Notice of Temporary Emergency Appropriation"

~~(14)~~ (23) . . .
~~(15)~~ (24) . . .
~~(16)~~ (25) . . .
~~(17)~~ (26) . . .
~~(18)~~ (27) . . .
~~(19)~~ (28) . . .
~~(20)~~ (29) Form No. 621 "Affidavit-of-Servise-for-Notise
of-Hearing" Notice of Termination of Authorization to Change
Appropriation Water Right"
(30) Form No. 621A "Notice of Termination of Permit to
Appropriate Water"
~~(21)~~ (31) Form No. 622 "Affidavit-of-Servise-for-Notise
of-Apppiation Revocation of Authorization to Change
Appropriation Water Right
~~(22)~~ (32) . . .
(33) Form No. 625 "Correction to Water Right Record"
(34) Form No. 626 "Application for Renewal of Temporary
Water Right Change"
(35) Form No. 627 "Notice of Water Right" (exempt from
the adjudication filing requirements)
(36) Form No. 628 "Reinstatement of Permit to
Appropriate Water"
(37) Form No. 629 "Reinstatement of Authorization to
Change Appropriation Water Right"
~~(23)~~ (38) . . .
~~(24)~~ (39) . . .
~~(25)~~ (40) . . .
~~(26)~~ (41) . . .

Auth: Sec. 85-2-113, MCA Imp: Sec. 85-2-113, MCA

36.12.103 APPLICATION AND SPECIAL FEES (1) A fee, if
required, shall be paid at the time the permit, change, notice
of completion, extension of time request, temporary change
renewal, transfer certificate, exempt water right or petition
application (hereafter singularly or collectively referred to
as application) is filed with the department. The department
will not process any application without the proper filing
fee. Failure to submit the proper permit or change
application fee with-an-application--or within 30 days after
notice shall result in a determination that the application is
not in good faith and does not show a bona fide intent ~~to~~
appropriate-water-for-a-beneficial-use, and the application
shall be terminated. A fee paid on an application is a
one-time filing and processing fee paid at the time of making
the application, and the fee will not be returned once the
application has been filed with the department, except as
noted below. If an applicant withdraws an application, he
shall be entitled to a refund, or, if an applicant
inadvertently files the wrong form, the applicant may apply
the fee paid to the correct form for his purpose and pay the
difference due or be entitled to a refund, if overpayment is
made. However, no refund upon withdrawal or no exchanges of
fees from one form to another or a refund, if otherwise
justified, will be made in any case once the newspaper
publication of the application has been initiated, or

substantial direct processing costs have been accrued in making the application correct and complete prior to publication or department waiver of publication. When an application needs to be republished due to an applicants error or request for republication, the applicant shall pay the direct cost of the new republication. The fees cover direct costs for newspaper publication, individual notices, issuance of certificates of water right on perfected permits, hearing costs, computer processing, and other miscellaneous direct costs connected with the permit process.

(a) For an Application for Beneficial Water Use Permit, Form No. 600, there shall be a fee of \$100, charge-based-on the-following-rate-schedule:

-----0-----less-than-25-----acre-feet-per-year-----	\$-50
-----25-----less-than-100-----acre-feet-per-year-----	100
-----100-----less-than-500-----acre-feet-per-year-----	150
-----500-----less-than-1,000-----acre-feet-per-year-----	200
-----1,000-or-more-----acre-feet-per-year-----	250

For-an-application-with-only-a-diversion-rate-increase, and no acre-feet-increase, the minimum fee shall apply.

(b) For an Application for Beneficial Water Use Permit, Form No. 600, there shall be a fee charge-based-on the following rate-schedule when filing an application for non-consumptive-uses:

-----0-----less-than-1,000-----acre-feet-per-year-----	\$-50
-----1,000-----less-than-10,000-----acre-feet-per-year-----	100
-----10,000-or-more-----acre-feet-per-year-----	200

For any application with a combination of consumptive and non-consumptive-uses the rate-formula-shown-in-(a)-(b)-above shall apply.

(c) (b) . . .

(c) (c) For a Notice of Completion of Groundwater Development (for groundwater developments with a maximum use of 35 gpm or less not to exceed 10 acre-feet per year, Form No. 602, there shall be a fee of \$1015. The department shall collect an additional \$10 fee to be deposited in the ground water assessment account as required by 85-2-306(5), MCA. The total fee to be paid for the filing of a Form 602 shall be \$2025.

(d) (d) For an Application for Provisional Permit for Completed Stockwater Pit or Reservoir (maximum capacity of the pit or reservoir must be less than 15 acre-feet), Form No. 605, there shall be a fee of \$1025.

(e) (e) For an Application for Change of Appropriation Water Right, Form No. 606, there shall be a fee of \$50100, except, when:

(1) (i) the change application concerns a replacement well or reservoir in the same source, or

(2) (ii) the change application is the result of a recommendation made during verification, there shall be a fee of \$1025 in addition to the direct cost of giving notice, if the department determines it must be advertised.

(f) (f) For an Application for Extension of Time, Form No. 607, there shall be a fee of \$2550 plus \$20 for publication costs.

~~(h)~~(g) For a Water Right Transfer Certificate, Form No. 608, there shall be a fee of ~~\$1025 plus, \$5 for each water right transferred after the first water right, not to exceed a maximum of \$50.~~

~~(h)~~ For each Addendum to Water Right Transfer Certificate for Apportioned Water Right, Form 608A, there shall be an additional fee of \$50.

~~(i)~~ For filing an Objection to Application, Form 611, there shall be a fee of \$50.

~~(i)~~ For an Application for Renewal of Temporary Water Right Change, Form 626, there shall be a fee of \$25.

~~(k)~~ For a Notice of Water Right, Form No. 627, there shall be a fee of \$25.

~~(*)~~ (l) . . .

~~(*)~~ (m) . . .

~~(*)~~ (n) For any a Correction to Water Right Record, Form No. 625 where the error in ~~correction~~ to an issued permit, authorization, or certificate ~~for an error was~~ caused by an applicant and a new document is issued, there shall be a fee of \$10. No fee shall be charged for ~~corrections~~ correcting errors caused by the department.

(2) There shall be no fees charged for filing the following forms:

(a) . . .

(b) ~~Form No. 611, Objection to Application.~~

~~(c)~~ Form No. 614, Statement of Conditional Agreement Notice of Temporary Emergency Appropriation.

~~(d)~~ (c) . . .

~~(e)~~ (d) . . .

Auth: Sec. 85-2-113, MCA Imp: Sec. 85-2-113, 312, MCA

3. The Board proposes to amend rule 36.12.101 by clarifying the meaning of spring and surface water as they are used in the administration of the Montana Water Use Act.

4. The Board proposes to amend rule 36.12.102 to update the titles of water right administration forms available and to list new forms required by legislative amendments.

5. The Board proposes to amend rule 36.12.103 in response to legislative reductions mandated in the 1992 special legislative session. The Water Resources Division general fund allocation was reduced with the understanding it would be replaced with increased water right fees. The fee increase will reflect the actual operational costs incurred by the agency in processing various water right documents. In addition the Board proposes to amend rule 36.12.103 by adding a new fee for the filing of an objection to an application, for renewing a temporary change, for filing an exempt water right with the Department, and for reinstating a permit or a change. [Note: Pursuant to MCA §2-4-110 the rule reviewer, in the exercise of independent legal judgment, is of the opinion that the Board may not have statutory authority to adopt rule 36.12.103(1)(i) requiring the payment of a fee for the filing of an objection.]

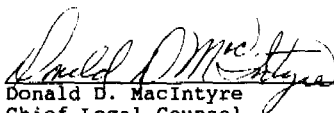
6. Interested parties may present their data, views or arguments in writing or orally at the hearing. Written data,

comments or arguments in support of or in opposition to the proposed amendments must be submitted to the Board of Natural Resources and Conservation, 1520 E. 6th Avenue, Helena, MT, 59620 no later than June 10, 1992.

7. Questions concerning the proposed amendments or requests for a copy of the proposed rules should be directed to the Department of Natural Resources and Conservation at the above Helena address, or call 444-6610.

8. The Montana Board of Natural Resources and Conservation will preside over and conduct the hearing.

BOARD OF NATURAL RESOURCES
AND CONSERVATION


Donald B. MacIntyre
Chief Legal Counsel
Rules Reviewer


Janice Rehberg, Chair

Certified to the Secretary of State on April 20, 1992.

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

In the matter of the	)	NOTICE OF PUBLIC HEARING ON
adoption of Rules I	)	THE PROPOSED ADOPTION OF
through XL pertaining to	)	RULES I THROUGH XL
medicaid home and	)	PERTAINING TO MEDICAID
community services for	)	HOME AND COMMUNITY SERVICES
persons who are	)	FOR PERSONS WHO ARE
developmentally disabled	)	DEVELOPMENTALLY DISABLED

TO: All Interested Persons

1. On May 20, 1992, at 10:00 a.m., a public hearing will be held in the auditorium of the Social and Rehabilitation Services Building, 111 Sanders, Helena, Montana to consider the proposed adoption of Rules I through XL pertaining to medicaid home and community services for persons who are developmentally disabled.

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

[RULE I] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:

AUTHORITY (1) The department has been granted by the United States department of health and human services (HHS) the authority to provide medicaid home and community services to persons with developmental disabilities. The authority to implement this program is provided in 42 USC 1396n(c) and 42 CFR 441.300 through 441.310. These rules implement in Montana the medicaid home and community services program for persons with developmental disabilities.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE II] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:

GENERALLY (1) The medicaid home and community services program for persons who are developmentally disabled serves persons:

(a) who would otherwise require the level of care provided in an intermediate care facility for the mentally retarded (ICF/MR); and

(b) for whom services provided through the medicaid home and community services program will not jeopardize the person's health and safety.

(2) Eligibility of applicants for the medicaid home and community services program is determined as provided in [Rule III].

(3) Placement into medicaid home and community services is determined as provided in ARM 46.8.1501 et seq.

(4) Services and placements in services through the medicaid home and community services program are available only to the extent that the federal approval of the state's program permits and that available funding allows.

(5) The department in order to comply with federal requirements or to limit expenditures to available funding may:

(a) reduce the number of medicaid recipients that may be served under the program;

(b) postpone or waive implementation of a particular service of the program; or

(c) eliminate one or more of the services of the program.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE III] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:

ELIGIBILITY (1) Under the medicaid home and community services program, services may be provided to a person whom the department determines:

(a) has a developmental disability, as defined in 53-20-202, MCA;

(b) is eligible for medicaid;

(c) requires the level of care provided in an intermediate care facility for the mentally retarded (ICF/MR), as determined by an evaluation of the person's service needs by:

(i) the intensive services review committee, as provided in [Rule IV], and a nurse; or

(ii) by a qualified mental retardation professional, as defined in ARM 46.12.1310, employed by the department, and a nurse; and

(d) does not reside in a hospital or long term care facility as defined in 50-5-101, MCA.

(i) A long term care facility provides skilled or intermediate nursing care, ICF/MR care and personal care.

(2) The level of care of an ICF/MR is needed when a person who is mentally retarded:

(a) has severe medical problems requiring substantial care, but not to the extent that habilitation is impossible;

(b) has extreme deficits in self-care and daily living skills which require intensive training; or

(c) has significant maladaptive social and/or interpersonal behavior patterns which require an on-going, supervised program of intervention.

(3) A person who has been admitted to an ICF/MR and who is dismissed to enter services under the medicaid home and community services program for persons with developmental disabilities is considered to be of the level of care of an ICF/MR and need not be evaluated as provided in (1).

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE IV] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:
INTENSIVE SERVICES REVIEW COMMITTEE (1) The intensive services review committee (ISRC) is a state level committee that may review persons referred to the medicaid home and community services program to determine if the person meets the level of care of an ICF/MR, as provided in [Rule III] and is therefore eligible for the program.

(2) The ISRC is composed of at least one representative from the developmental disabilities division and a provider of intensive services. A representative from the department of family services and a nurse may also be included on the committee.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE V] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:
AVAILABLE SERVICES (1) The following services may be provided under the medicaid home and community services program:

- (a) case management services, as provided in [Rules XI and XII];
- (b) homemaker services, as provided in [Rules XIII and XIV];
- (c) personal care services, as provided in [Rules XV and XVI];
- (d) adult day care services, as provided in [Rules XVII and XVIII];
- (e) habilitation services, as provided in [Rules XIX and XX];
- (f) respite care services, as provided in [Rules XXI and XXII];
- (g) occupational therapy services, as provided in [Rules XXIII and XXIV];
- (h) physical therapy services, as provided in [Rules XXV and XXVI];
- (i) speech therapy services, as provided in [Rules XXVII and XXVIII];
- (j) environmental modifications, as provided in [Rules XXIX and XXX];
- (k) adaptive equipment as provided in [Rules XXXI and XXXII];
- (l) transportation services, as provided in [Rules XXXIII and XXXIV];
- (m) psychological services, as provided in [Rules XXXV and XXXVI];
- (n) nursing services, as provided in [Rules XXXVII and XXXVIII]; and
- (o) dietitian services, as provided in [Rules XXXIX and XL].

(2) Services available to a recipient through the program are limited to the services specified in the recipient's individual plan of care.

(3) Services available to a recipient through the program are limited to services that are not available otherwise to the

recipient through the state medicaid program or any other local government, state or federal program for which the person is eligible or would be eligible upon application.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE VI] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:
GENERAL PROVIDER REQUIREMENTS

(1) Medicaid home and community services may be provided only by providers under contract with the department.

(2) A provider that is among the providers listed in ARM 46.8.901 must be accredited as provided in that rule.

(3) Any facility providing services must meet all applicable licensing requirements and fire and safety standards.

(4) Reimbursement for services shall not be made to a member of the recipient's immediate family.

(a) Immediate family includes the following:

- (i) husband or wife;
- (ii) natural parent;
- (iii) natural child;
- (iv) natural sibling;
- (v) adopted child;
- (vi) adopted parent;
- (vii) step-parent;
- (viii) step-child;
- (ix) step-brother or step-sister;
- (x) father-in-law or mother-in-law;
- (xi) son-in-law or daughter-in-law;
- (xii) brother-in-law or sister-in-law;
- (xiii) grandparent;
- (xiv) grandchild; or
- (xv) foster child.

(5) Individual persons directly providing services must be mentally and physically capable of assisting recipients as required by the program.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE VII] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:
REIMBURSEMENT

(1) Reimbursement under the medicaid home and community services program is only available for services specified in the recipient's individual plan of care.

(2) Reimbursement for services is at those rates that are available under the terms of the contract that the department enters into with providers of services.

(3) Reimbursement is not available in the following circumstances:

(a) for the cost of room and board unless provided as part of respite care;

(b) for services reimbursable under the state medicaid program or any other local government, state or federal program

for which the person is eligible or would be eligible upon application;

(c) for costs of services that exceed the funding available for the recipient as provided in the department's contract with the provider; and

(d) for services provided on an inpatient basis at a hospital or a long term care facility as defined in 50-5-101, MCA.

(4) No co-payment will be imposed on recipients for the costs of medicaid home and community services, however, recipients are responsible for co-payments on other medicaid services as defined in ARM 46.12.204.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE VIII] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:
INDIVIDUAL PLANS OF CARE

(1) Individual plans of care for recipients of medicaid home and community services must:

(a) conform with ARM 46.8.105 or alternative procedures approved by the department;

(b) include a description of each service to be provided, the frequency of those services, and the type of provider; and

(c) include the projected annualized costs of each service.

(2) The individual plan of care must be reviewed and approved by the department.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE IX] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:
INFORMING BENEFICIARY OF CHOICE

(1) A person determined by the department to require the level of care provided in an ICF/MR must be given a choice between placement in an ICF/MR or in the medicaid home and community services program.

(2) The person or legal representative must be informed of the feasible alternatives in the community, if any, available under the medicaid home and community services program.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE X] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:
NOTICE AND FAIR HEARING

(1) The department will provide written notice to applicants for and recipients of medicaid home and community services when determinations are made by the department concerning their status pertaining to level of care and selection or denial for placement.

(a) The department will provide a recipient with notice 10 working days before termination of services due to a determination of ineligibility.

(2) The department will provide a recipient at least 30 calendar days notice before any termination or reduction as

provided in [Rule II(4)] services due to insufficient program funds.

(3) A person may request a fair hearing as provided in ARM 46.2.201 et seq. for a level of care determination finding the person ineligible for services.

(4) A person may request a review and a fair hearing as provided in ARM 46.8.1550 for a non-selection or denial of a service made by the department. A person may not appeal a termination or reduction in services undertaken by the department in accordance with [Rule II(4)].

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XI] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:

CASE MANAGEMENT SERVICES, DEFINITION (1) Case management services are services for the support and coordination of medicaid home and community services provided to individual recipients.

(2) Case management services include:

(a) developing individual plans of care;

(b) monitoring and managing individual plans of care;

(c) arranging for and establishing resources for the recipient;

(d) maximizing the recipient's efficient use of services and community and family resources, including mobilizing and using support systems such as family members, social organizations and friends;

(e) facilitating interaction among people working with the recipient; and

(f) teaching the recipient and caregivers skills which enable them to independently locate and establish contact with agencies that can assist in securing needed services.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XII] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:

CASE MANAGEMENT SERVICES, REQUIREMENTS (1) Case management services may only be provided by non-profit corporations under contract with the department.

(2) A case manager must:

(a) meet requirements specified by the contract with the department;

(b) provide appropriate case management services in the least costly manner; and

(c) implement the plan of care.

(3) The case manager is responsible for:

(a) obtaining, training, supervising and subcontracting with direct service providers;

(b) requiring documentation of the service provided; and

(c) for approving payment to direct service providers.

(4) A recipient may choose a provider from among the available qualified providers.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XIII] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:
HOMEMAKER SERVICES, DEFINITIONS (1) Homemaker services are general household activities performed for persons who are unable to manage their home or care for self or others in the home and for whom there is no one else who can be responsible for these activities.

(2) Homemaker services may include:

(a) meal preparation, cleaning, simple household repairs, laundry, shopping for food and supplies and other routine household care;

(b) household management services consisting of assistance with those activities necessary for maintaining and operating a home and may include assisting the recipient in finding and relocating in other housing; and

(c) teaching services consisting of activities which will improve a recipient's or family's skills in household management and social functioning.

(3) Homemaker services do not include the provision of personal care services as defined in ARM 46.12.555 through 46.12.557.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XIV] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:
HOMEMAKER SERVICES, REQUIREMENTS (1) A homemaker must be:
(a) able to follow written instructions;
(b) able to communicate by the telephone; and
(c) able to maintain records appropriate to the job assignment.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XV] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:
PERSONAL CARE SERVICES, DEFINITIONS (1) Personal care services are defined in ARM 46.12.555, except that under the medicaid home and community services program personal care services may include supervision for health and safety reasons.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XVI] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:
PERSONAL CARE SERVICES, REQUIREMENTS (1) A personal care attendant must be:
(a) able to follow written instructions;
(b) able to communicate verbally and in writing; and
(c) able to maintain records appropriate to the job assignment.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XVII] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:
ADULT DAY CARE SERVICES, DEFINITIONS

(1) Adult day care services are functional training services for the health, social, habilitation and supervision needs of a recipient provided in settings outside the person's place of residence.

(2) Adult day care services provided to an older recipient may be primarily for skill maintenance and the acquisition of skills that will enable the recipient to participate in a variety of age-appropriate activities supporting the goal of maintaining the recipient's ability to function in the community and to avoid institutionalization.

(3) Adult day care services do not include residential overnight services.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XVIII] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:
ADULT DAY CARE SERVICES, REQUIREMENTS

(1) An adult day care provider must employ staff experienced in providing services to persons with developmental disabilities, particularly to persons of advanced age.

(2) A provider must provide in-service training in first aid, CPR, behavior management and other identified needs.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XIX] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:
HABILITATION SERVICES, DEFINITION

(1) Habilitation services are services that stimulate and maintain the development of a recipient's skills or that reduce behaviors which interfere with the recipient's development.

(2) Habilitation services may include:

(a) intense training required to alleviate severe skill deficits;

(b) on-going, supervised intervention for significant behavior problems;

(c) substantial care needed for medical problems which do not preclude habilitation;

(d) pre-vocational services; and

(e) supported employment services, which provide the opportunity to work for pay in regular employment, to integrate with non-disabled persons who are not paid caregivers, and to receive long term support in order to retain the employment.

(3) Pre-vocational services may include training in self-help skills, motor and physical development, communication skills, functional academics, community life skills, work skills, and leisure skills.

(4) Supported employment services may include:

(a) pre-placement activities;

- (b) job market analysis/job development;
- (c) job match/screening;
- (d) job placement/training;
- (e) on-going assessment, support, and service coordination; and
- (f) transportation.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XX] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:
HABILITATION SERVICES, REQUIREMENTS

(1) Habilitation services may be provided in the following settings:

- (a) residential settings. Residential settings include:

- (i) community homes for adults;
- (ii) community homes for children;
- (iii) foster homes; and
- (iv) the recipient's own home.

- (b) day settings. Day settings include:

- (i) intensive day programs;
- (ii) prevocational programs; and
- (iii) supported employment.

(2) Prevocational and supported employment services may be provided to only those recipients who formerly resided in ICF's/MR.

(3) Prevocational services may be provided only to those recipients who are compensated for the work they do at a rate that is less than 50% of minimum wage.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XXI] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:
RESPIRE CARE, DEFINITION

(1) Respite care services are services provided to a recipient so as to temporarily relieve those persons normally caring for the recipient from the responsibility for the care of the recipients.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XXII] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM:
RESPIRE CARE, REQUIREMENTS

(1) A respite care provider must be aware of emergency assistance systems.

(2) Respite care providers may be required by the case manager to be:

(a) knowledgeable of the physical and mental conditions of the recipient;

(b) knowledgeable of the common medications and related conditions of the recipient; and

(c) capable of administering basic first aid.

(3) Respite care available to a recipient is limited to 30 days in a fiscal year. Additional respite care may be allowed

if contained in an approved plan of care, and if the cost does not exceed the available funding.

(4) Respite care may be provided in a recipient's place of residence, in another private residence, or in an appropriate community setting.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XXIII] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: OCCUPATIONAL THERAPY SERVICES, DEFINITION (1) Occupational therapy services are defined in ARM 46.12.545, except that under the medicaid home and community services program outpatient occupational therapy services may be provided for:

- (a) habilitation;
- (b) maintenance; or
- (c) training for persons providing direct care.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XXIV] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: OCCUPATIONAL THERAPY SERVICES, REQUIREMENTS (1) Occupational therapy must meet the requirements for occupational therapy services required by ARM 46.12.546, except that under the medicaid home and community services program:

- (a) maintenance therapy is reimbursable;
- (1) there is not a limitation on visits for maintenance therapy;
- (b) training for persons providing direct care is reimbursable; and
- (c) participation in the interdisciplinary team planning process is reimbursable.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XXV] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: PHYSICAL THERAPY SERVICES, DEFINITION (1) Physical therapy services are defined in ARM 46.12.525, except that under the medicaid home and community services program physical therapy services may provide for:

- (a) habilitation;
- (b) maintenance; or
- (c) training for persons providing direct care.
- (2) Physical therapy treatment training programs may include:
 - (a) preserving and improving abilities for independent function, such as range of motion, strength, tolerance, coordination and activities of daily living; and
 - (b) preventing, insofar as possible, irreducible or progressive disabilities through means such as the use of orthotic prosthetic appliances, assistive and adaptive devices, positioning, behavior adaptations and sensory stimulation.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XXVII] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: PHYSICAL THERAPY SERVICES, REQUIREMENTS (1) Physical therapy must meet the requirements of ARM 46.12.526, except that under the medicaid home and community services program:

- (a) maintenance therapy may be reimbursed;
- (i) there is not a limitation on visits for maintenance therapy;
- (b) training for persons providing direct care is reimbursable; and
- (c) participation in the interdisciplinary team planning process is reimbursable.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XXVII] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: SPEECH THERAPY SERVICES, DEFINITION (1) Speech therapy services are defined in ARM 46.12.530, except that under the medicaid home and community services program speech therapy services may be provided for:

- (a) habilitation;
- (b) maintenance; or
- (c) training for persons providing direct care.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XXVIII] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: SPEECH THERAPY SERVICES, REQUIREMENTS (1) Speech therapy must meet the requirements of ARM 46.12.531, except that under the medicaid home and community services program:

- (a) maintenance therapy may be reimbursed;
- (i) there is not a limitation on visits for maintenance therapy;
- (b) training for persons providing direct care is reimbursable; and
- (c) participation in the interdisciplinary planning process is reimbursable.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XXIX] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: ENVIRONMENTAL MODIFICATIONS, DEFINITIONS (1) Environmental modifications services are measures that provide the recipient with accessibility and safety in the environment so as to maintain or improve the ability of the recipient to remain in community settings and employment.

(2) Environmental modifications may be made to a recipient's home or vehicle for the purpose of increasing independent

functioning and safety or to enable family members or other caregivers to provide the care required by the recipient.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XXXI] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: ENVIRONMENTAL MODIFICATIONS, REQUIREMENTS (1) An environmental modification provided to a recipient must:

- (a) relate specifically to and be primarily for the recipient's disability;
- (b) have utility primarily for a person who has a disability;
- (c) not be an item or modification that a family would normally be expected to provide for a nondisabled family member;
- (d) not be in the form of room and board or general maintenance;
- (e) meet the specifications for the modification set by the American national standards institute (ANSI); and
- (f) be prior authorized jointly by the provider's board of directors and the department if the project exceeds specified contract limits.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XXXII] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: ADAPTIVE EQUIPMENT, DEFINITIONS (1) Adaptive equipment is equipment necessary to increase the ability of a person with a disability to function independently in community settings and employment.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XXXIII] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: ADAPTIVE EQUIPMENT, REQUIREMENTS (1) Adaptive equipment provided to a recipient must:

- (a) relate specifically to and be primarily for the recipient's disability;
- (b) have utility primarily for a person who has a disability;
- (c) meet the specifications for the equipment set by the American national standards institute (ANSI);
- (d) be prior authorized jointly by the provider's board of directors and the department if the project exceeds specified contract limits; and
- (e) not be available to the recipient through other sources.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XXXIII] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: TRANSPORTATION AND ESCORT SERVICES. DEFINITION

(1) Transportation services are services furnished by common transportation carrier or private vehicles to transport recipients for needed services or social activities.

(2) Escort services are accompaniment for purposes of providing guidance and assistance.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XXXIV] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: TRANSPORTATION AND ESCORT SERVICES. REQUIREMENTS

(1) Transportation providers must have:

(a) a valid Montana driver's license;

(b) adequate automobile insurance as determined by the department; and

(c) assurance of vehicle compliance with all applicable federal, state and local laws and regulations.

(2) Transportation and escort services must be provided by the most cost effective mode.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XXXV] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: PSYCHOLOGICAL SERVICES. DEFINITION

(1) Psychological services are defined in ARM 46.12.580 except that under the medicaid home and community services program, psychological services may be provided for:

(a) consultation with persons providing direct care;

(b) development and monitoring of behavior programs; and

(c) counseling to persons caring directly for the recipient when the caregiver's counseling needs are related to the responsibilities of the caregiving relationship.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA

IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XXXVI] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: PSYCHOLOGICAL SERVICES. REQUIREMENTS

(1) Psychological services must be provided by a psychologist licensed as provided in ARM 8.52.601 et seq.

(2) Psychological services must meet the requirements of ARM 46.12.581 except that under the medicaid home and community services program:

(a) consultation with direct care givers is reimbursable;

(b) development and monitoring of behavior programs is reimbursable; and

(c) counseling to persons caring directly for the recipient when the caregiver's counseling needs are related to the responsibilities of the caregiving relationship.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XXXVII] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: NURSING SERVICES, DEFINITION (1) Nursing services are defined in 37-8-102, MCA.

(2) Nursing services may include:
(a) medical management;
(b) direct treatment;
(c) consultation; and
(d) training for the recipient or persons providing direct care.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XXXVIII] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: NURSING SERVICES, REQUIREMENTS (1) Nursing services must be provided by a registered nurse or licensed practical nurse.

(2) Persons providing nursing services must meet the licensure and certification requirements provided in ARM 8.32.401 et seq.

(3) Nursing services may be provided to a recipient in his home, vocational or day activity setting.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XXXIX] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: DIETITIAN SERVICES, DEFINITION (1) Dietitian services are services related to the management of a recipient's nutritional needs and include:

(a) meal planning;
(b) consultation with and training for persons providing direct care; and
(c) education for the recipient.
(2) Dietitian services do not include the provision of meals.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

[RULE XL] MEDICAID HOME AND COMMUNITY SERVICES PROGRAM: DIETITIAN SERVICES, REQUIREMENTS (1) Dietitian services must be provided by a registered dietitian or a licensed nutritionist.

(2) Dietitians must meet the qualifications in 37-21-301 et seq., MCA.

(3) Nutritionists must meet the licensing requirements in 37-25-301 et seq., MCA.

(4) Reimbursement is not available for the cost of food items and meal preparation.

AUTH: Sec. 53-2-201, 53-6-113, 53-6-402 and 53-20-204 MCA
IMP: Sec. 53-2-201, 53-6-101, 53-6-402 and 53-20-205 MCA

3. Through the federal medicaid program a state may choose to implement with the approval of the United States Health Care Financing Administration (HCFA), a program known as home and community services. This program allows a state to provide at its discretion an array of services to persons in their homes and communities so as to prevent their placement into more restrictive and expensive institutions. Montana, through the Department of Social and Rehabilitation Services, has received authorization in accordance with plans submitted by the state to provide home and community services to elderly and disabled persons and persons with developmental disabilities.

Previously, the medicaid home and community program served all the eligible populations under one approved plan and one set of rules. More recently, the state has submitted to HCFA a separate plan for services to persons with developmental disabilities. The medicaid home and community services program for persons with developmental disabilities differs significantly from the medicaid home and community services program for elderly and disabled persons in respect to eligibility, services, the manner of service performance, and the manner of administration. For these reasons, a separate set of rules are necessary for the program. In addition, home and community services to persons with developmental disabilities are administrated separately from the home and community services program for elderly and disabled persons.

This proposed set of rules are necessary for the implementation and conduct of the program of home and community services for persons who are developmentally disabled. The proposed rules generally provide procedures and criteria to govern the provision of home and community services to persons with disabilities.

Proposed rules for eligibility are necessary to provide procedures and criteria to limit eligibility in accordance with the state plan approved by the federal government. The proposed rules provide the Department with necessary discretion in determining those persons who are to receive services.

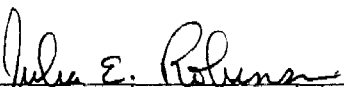
The proposed rules provide for the operation of a case management system for recipients and provide an array of home and community services. These provisions are necessary for the selection and coordination of service delivery and for providing an array of available services that are flexible and effective in meeting the needs of the recipients in a manner to foster the well-being of the recipients. The rules specify the services that may be provided through the program and provide the definitions and requirements for those services.

The proposed rules are necessary to assure compliance generally and specifically with the federal authorities at 42 USC §1396n (c) and 42 CFR §441.300 et seq. governing the implementation of home and community medicaid services. The proposed rules implement for persons with developmental disabilities 53-6-402 (1), MCA, concerning community-based long term care medicaid services.

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 Russell E. Cater, Chief Legal Counsel, Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, Montana 59604-4210, no later than May 28, 1992.

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


Rule Reviewer


Director, Social and Rehabilitation Services

Certified to the Secretary of State April 20, 1992.

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

In the matter of the	)	NOTICE OF PUBLIC HEARING ON
amendment of rules 46.25.727	)	THE PROPOSED AMENDMENT OF
and 46.25.744 pertaining to	)	RULES 46.25.727 AND
general relief assistance	)	46.25.744 PERTAINING TO
and general relief medical	)	GENERAL RELIEF ASSISTANCE
	)	AND GENERAL RELIEF MEDICAL

TO: All Interested Persons

1. On May 20, 1992, at 3:00 p.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 46.25.727 and 46.25.744 pertaining to general relief assistance and general relief medical.

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

46.25.727. MONTHLY INCOME AND RESOURCE STANDARD FOR GENERAL RELIEF ASSISTANCE (1) The monthly income standards are:

Monthly Income Standard

Number of Persons in Household	Monthly Income Standard
1	\$ 232 238
2	311 322
3	390 405
4	469 488
5	548 571
6	627 654
7	706 738
8	785 822
9	865 905
10	944 988
11	1,023 1,071
12	1,102 1,155
13	1,181 1,238
14	1,260 1,321
15	1,339 1,404
16 or more	1,418 1,488

AUTH: Sec. 53-2-201, 53-2-803 and 53-3-114 MCA

IMP: Sec. 53-2-205 and 53-3-206 MCA

46.25.744 INCOME FOR GENERAL RELIEF MEDICAL Subsec-
tions (1) through (4) remain the same.
(5) The monthly income levels are:

MONTHLY INCOME LEVELS

<u>Family Size</u>	<u>Monthly</u> <u>Income Level</u>
1	\$ 348 359
2	466 483
3	585 608
4	704 732
5	822 858
6	941 983
7	1,059 1,107
8	1,178 1,233
9	1,297 1,358
10	1,415 1,482
11	1,534 1,607
12	1,653 1,733
13	1,771 1,857
14	1,890 1,982
15	2,009 2,106
16 or more	2,127 2,232

AUTH: Sec. 53-2-201, 53-3-206, 53-2-803 and 53-3-114 MCA
IMP: Sec. 53-3-205 and 53-3-206 MCA

3. ARM 46.25.727 and 46.25.744 set forth the monthly income standards used to determine eligibility and benefit amounts for General Relief Assistance (GRA) and General Relief Medical (GRM). Pursuant to 53-3-205(2), MCA, the Department of Social and Rehabilitation Services computes the GRA standards based on a percentage of the federal poverty index established in the State General Appropriations Act. Pursuant to 53-3-206(8), MCA, the GRM standards are calculated at 150% of the GRA standards. As the federal poverty indices change each year, so must the monthly income standards for the GRA and GRM programs change accordingly.

The General Appropriations Act of the 52nd Montana Legislature, House Bill 2, mandated the department to compute the standards based on 42% of the federal poverty index. The department has calculated the GRA and GRM standards for fiscal year 1993 at 42% of the federal poverty index for calendar year 1991, resulting in increases in the GRA and GRM standards. It is therefore necessary to amend ARM 46.25.727 and 46.25.744 to increase these standards.

4. These proposed amendments will be effective July 1, 1992.

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 Russell E. Cater, Chief Legal Counsel, Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, MT 59604-4210, no later than May 28, 1992.

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

Dana Davis
Rule Reviewer

Henry M. Haber
Director, Social and Rehabilitation Services

Certified to the Secretary of State April 20, 1992.

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

In the matter of the	)	NOTICE OF PUBLIC HEARING ON
amendment of rule 46.10.302	)	THE PROPOSED AMENDMENT OF
pertaining to aid to	)	RULE 46.10.302 PERTAINING
families with dependent	)	TO AID TO FAMILIES WITH
children provision for	)	DEPENDENT CHILDREN
living with a specified	)	PROVISION FOR LIVING WITH A
relative	)	SPECIFIED RELATIVE

TO: All Interested Persons

1. On May 20, 1992, at 2:30, p.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 rule 46.10.302 pertaining to aid to families with dependent children provision for living with a specified relative.

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

46.10.302 LIVING WITH A SPECIFIED RELATIVE (1) To be eligible for assistance in other than foster care situations, the child must be living with ~~his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, step-brother, stepsister, uncle, aunt, first cousin, nephew, niece, or other individual having a blood or legal relationship with the child, in a place of residence maintained as their own home.~~ any relation by blood, marriage or adoption who is within the fifth degree of kinship to the child in a place of residence maintained as their own home. The caretaker relative must be the child's parent, grandparent, great grandparent, great-great grandparent, great-great-great grandparent, sibling, uncle, aunt, great uncle, great aunt, great-great uncle, great-great aunt, first cousin, first cousin once removed, nephew, niece or step relatives of the same degree of relationship; for example, stepparent, stepgrandparent or stepsibling. The above-named relative with whom the child is living may be included in the grant as a caretaker relative. Spouses of any person named above will be considered as a specified relative, even after the marriage is terminated by death or divorce.

(a) ~~Payment of AFDC may continue even though either the in behalf of a dependent child or the caretaker relative is in situations that temporarily deprive the child or the care of the payee receiving payments in their behalf or the situation makes it necessary for the child to be temporarily absent from the home, of the approved payee. The regular payee may continue receiving payment and have his needs met as a needy~~

~~caretaker if the relative for a temporary period of time not to exceed 90 days if he continues to exercise responsibility for the care and control of the child or if the relative payee plans later to resume exercising responsibility for the care and control of the child; later, and the temporary absence does not exceed 90 consecutive days.~~

~~(b) If it is not feasible to continue payments cannot be made to the caretaker relative during this temporary absence, directly to the regular payee, then payments may be made to a person acting for the relative approved payee for a temporary period not to exceed 90 days. The relative regular payee may continue to have his needs included met in the assistance payment as a needy caretaker relative so long as unless his absence from the home is not due to his being institutionalized. No person may receive AFDC while in an institution.~~

Subsection (2) and (2)(a) remain the same.

AUTH: Sec. 53-4-201 and 53-4-212 MCA

IMP: Sec. 53-4-201 and 53-4-211 MCA

3. ARM 46.10.302 as currently written is inconsistent with the department's present policy regarding specified relatives. The rule provides that a grandparent, aunt or uncle, or first cousin qualifies as a specified relative. It does not mention great grandparents, great-great grandparents, or great aunts or great uncles, although the department does recognize them as specified relatives. It is therefore necessary to amend the rule to make it consistent with the department's current policy on specified relatives.

In addition, the Administration for Children and Families of the U. S. Department of Health and Human Services, the federal agency which administers the Aid to Families with Dependent Children (AFDC) program, has recently notified the department that it will now recognize great-great-grandparents and first cousins once removed as specified relatives. The rule must therefore be amended to make it conform to the expanded definition of specified relative recently adopted by the federal agency.

Subsections (1)(a) and (b) of the rule relating to eligibility for AFDC during temporary absences of the child or the caretaker relative from the home are also being amended to make them more understandable. There is no change in the department's policy regarding temporary absences.

4. These proposed rule amendments will be effective July 1, 1992.

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 Russell E. Cater, Chief Legal Counsel, Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, MT 59604-4210, no later than May 28, 1992.

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

Don Stin
Rule Reviewer

Henry H. Hark
Director, Social and Rehabilitation Services

Certified to the Secretary of State April 20, 1992.

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

In the matter of the	)	NOTICE OF PUBLIC HEARING ON
amendment of rules 46.12.515	)	THE PROPOSED AMENDMENT OF
and 46.12.516 pertaining to	)	RULES 46.12.515 AND
medicaid coverage of	)	46.12.516 PERTAINING TO
respiratory care, chemical	)	MEDICAID COVERAGE OF
dependency and chiropractic	)	RESPIRATORY CARE, CHEMICAL
services for children in	)	DEPENDENCY AND CHIROPRACTIC
kids count/early and	)	SERVICES FOR CHILDREN IN
periodic screening diagnosis	)	KIDS COUNT/EARLY AND
and treatment (EPSDT)	)	PERIODIC SCREENING
program	)	DIAGNOSIS AND TREATMENT
	)	(EPSDT) PROGRAM

TO: All Interested Persons

1. On May 20, 1992, at 4:00 p.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 46.12.515 and 46.12.516 pertaining to medicaid coverage of respiratory care, chemical dependency and chiropractic services for children in kids count/early and periodic screening diagnosis and treatment (EPSDT) program.

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

46.12.515 KIDS COUNT/EARLY AND PERIODIC SCREENING DIAGNOSIS AND TREATMENT, ALLOWABLE SERVICES (1) The following are allowable services under this program subject to the requirements contained in ~~subsection (9), (10) and (11)~~ (2), (3) and (4).

Subsections (2) through (6)(b) remain the same in text but are renumbered (1)(a) through (e)(ii).

(f) Chiropractic services when medically necessary. The chiropractic services must be performed by a licensed chiropractor in accordance with the laws of the state in which he or she is practicing.

(i) Chiropractic services are limited to treatment by means of manual manipulation of the spine, and x-rays to support the diagnosis of subluxation of the spine. X-rays must have been taken within 12 months preceding the date of service.

(g) Outpatient chemical dependency treatment when determined appropriate by a certified chemical dependency counselor. Services included are:

(i) Intensive outpatient treatment. Treatment must be provided by a chemical dependency treatment program approved by the department of corrections and human services (DCHS) to

provide intensive outpatient services according to applicable laws, rules and regulations:

(A) The plan of care must be in accordance with DCHS approval criteria for intensive outpatient treatment, and must include aftercare.

(B) Aftercare means counseling services provided to a client who has completed inpatient or intensive outpatient care to enhance the chances of recovery. This service is provided at least once weekly (generally in a group setting) for a period of at least 12 weeks.

(ii) basic outpatient treatment. Treatment must be provided by a chemical dependency treatment program approved by DCHS to provide basic outpatient services according to applicable laws, rules and regulations:

(A) The plan of care must be in accordance with DCHS approval criteria for basic outpatient treatment.

(iii) aftercare treatment provided by DCHS-approved providers to adjudicated youth who have received inpatient treatment funded by the department of family services.

(h) Respiratory care services when medically necessary and ordered by a physician. The respiratory care services must be performed by a licensed respiratory care practitioner in accordance with the laws of the state in which he or she is practicing.

Subsection (7) remains the same in text but is renumbered (1)(i).

Subsections (8) through (10) remain the same in text but are renumbered (2) through (4).

Subsection (11) remains the same in text but is renumbered (1)(j).

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-101 MCA

46.12.516 KIDS COUNT/EARLY AND PERIODIC SCREENING DIAGNOSIS AND TREATMENT, REIMBURSEMENT Subsections (1) through (1)(c) remain the same.

(d) medicaid reimbursement for nutrition services, respiratory care services, chemical dependency treatment, and chiropractic services will be the lowest of:

Subsections (1)(d)(i) through (1)(e) remain the same.

AUTH: Sec. 53-6-113 MCA

IMP: Sec. 53-6-101 MCA

3. The Omnibus Budget Reconciliation Act of 1989 (OBRA 1989) requires that states provide to children under age 21 coverage of all categories of service reimbursable under federal medicaid law, regardless of whether the state generally provides medicaid coverage of such services. OBRA 1989 does not require the state to extend the broader coverage to individuals age 21 and older. Federal regulations at 42 CFR 440.60 allow states to provide medicaid coverage of chiropractic services and for respiratory therapy services. Federal

regulations at 42 CFR 440.130 allow coverage of ambulatory chemical dependency treatment services under the rehabilitative services category.

The current administrative rules for the Montana medicaid program do not provide for coverage of respiratory care or chiropractic services for any recipients. Current administrative rules do not provide coverage of ambulatory chemical dependency treatment services for any recipients. The outpatient hospital services program does allow provision of chemical dependency treatment services as an outpatient hospital service, but no hospitals provide that service under the outpatient hospital program.

The proposed amendments are necessary to implement medicaid coverage required by federal law and to define as required by state law the amount, scope and duration of the service coverages implemented. The proposed amendments will implement medicaid coverage of respiratory care, chiropractic, and chemical dependency treatment services for medicaid eligible children under age 21. Intensive outpatient chemical dependency treatment and aftercare services will be available for children under the age of 21, with the goal of restoring the child to his or her best possible functional level. The proposed rule will define the coverages available, and specify which professionals may provide the covered services, what requirements must be met for reimbursement and the amount of reimbursement for the services.

4. These proposed amendments will be effective July 1, 1992.

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 Russell E. Cater, Chief Legal Counsel, Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, MT 59604-4210, no later than May 28, 1992.

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

Dawn Silva
Rule Reviewer

Henry M. Hudson Jr.
Director, Social and Rehabilitation Services

Certified to the Secretary of State April 20, 1992.

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

In the matter of the	)	NOTICE OF PUBLIC HEARING ON
amendment of rule 46.12.3803	)	THE PROPOSED AMENDMENT OF
pertaining to medically	)	RULE 46.12.3803 PERTAINING
needy income standards	)	TO MEDICALLY NEEDEY INCOME
	)	STANDARDS

TO: All Interested Persons

1. On May 20, 1992, at 11:30 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 rule 46.12.3803 pertaining to medically needy income standards.

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

46.12.3803 MEDICALLY NEEDEY INCOME STANDARDS Subsections
(1) through (3)(a) remain the same.
(b) Institutionalized recipients must also meet the income criteria of ARM 46.12.4008.

MEDICALLY NEEDEY INCOME LEVELS
FOR SSI and AFDC-RELATED INDIVIDUALS
AND FAMILIES

<u>Family Size</u>	<u>One Month</u> <u>Net Income</u> <u>Level</u>	
1	\$407	422
2	417	433
3	443	461
4	469	488
5	548	571
6	627	654
7	706	738
8	785	822
9	800	861
10	835	899
11	866	933
12	897	967
13	924	997
14	950	1,025
15	975	1,052
16	997	1,076

AUTH: Sec. 53-6-113 MCA

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

3. The income standards which determine eligibility for the Medically Needy Program are based on the standards used in the most closely related cash assistance program which is Aid to Families with Dependent Children (AFDC). The AFDC benefit standards are increasing effective July 1, 1992, as required by the General Appropriations Bill of the 52nd Montana Legislature, House Bill 2. It is therefore necessary to amend ARM 46.12.3803 to increase the Medically Needy standards to follow the increased AFDC standards.

4. These proposed amendments will be effective July 1, 1992.

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 Russell E. Cater, Chief Legal Counsel, Office of Legal Affairs, Department of Social and Rehabilitation Services, P.O. Box 4210, Helena, MT 59604-4210, no later than May 28, 1992.

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

Dawn Shinn
Rule Reviewer

Henry A. Shinn
Director, Social and Rehabilitation Services

Certified to the Secretary of State April 20, 1992.

BEFORE THE BOARD OF THE
STATE COMPENSATION MUTUAL INSURANCE FUND
OF THE STATE OF MONTANA

In the matter of the adoption	)	NOTICE OF ADOPTION OF NEW
of new rules pertaining to	)	RULES PERTAINING TO THE
the organization of the state	)	ORGANIZATION OF THE STATE
fund and the construction	)	FUND AND THE CONSTRUCTION
industry premium credit	)	INDUSTRY PREMIUM CREDIT
program and amendments of	)	PROGRAM AND AMENDMENTS OF
rules pertaining to	)	RULES 2.55.320, 2.55.321,
classifications and the	)	2.55.322, 2.55.324, AND
establishment of premium	)	2.55.325
rates)	

TO: All Interested Persons:

1. On February 27, 1992, the board published notice of public hearing on the proposed adoption of new rule I (2.55.327), and amendments of rules 2.55.320, 2.55.321, 2.55.322, 2.55.324, and 2.55.325 pertaining to the State Compensation Mutual Insurance Fund. The notice can be found on pages 257 through 264 of the 1992 Montana Administrative Register, Issue No. 4.

2. The organizational rule was noticed as a new rule on December 26, 1991, MAR Issue No. 24, pgs. 2521-2522. At the request of legal counsel for the Department of Administration, the rule was not previously adopted as noted in MAR Issue No. 4, February 27, 1992, p. 300. Legal counsel is now allowing the State Fund to adopt the previously noticed organizational rule.

3. After consideration of comments received on the proposed rules, the board adopted those rules as proposed with the following changes (new material is underlined, deleted material is interlined).

RULE I. (2.55.327) CONSTRUCTION INDUSTRY PREMIUM CREDIT PROGRAM (1) through (6) remain the same as proposed.

AUTH: Sec. 39-171-2315 and 2316, MCA; IMP: Sec. 39-71-2211, 39-71-2311 and 39-71-2316 MCA.

RULE I. (2.55.102) ORGANIZATIONAL RULE (1) through (3) remain the same as proposed.

AUTH: Sec. 39-171-2315 and 2316, MCA; IMP: Sec. 2-4-201, MCA.

2.55.320 METHOD FOR ASSIGNMENT OF CLASSIFICATIONS OF EMPLOYMENTS (1) through (2) remain the same as proposed.

(3) The state fund staff shall assign its insureds to classifications contained in the classifications section of

the state compensation mutual insurance fund policy services underwriting manual issued July 1, 1991, and assign new or changed classifications as approved by the board through June 30, 1992, and will use the classifications section issued July 1, 1992 from that date forward. These That sections of the manual are is hereby incorporated by reference. Copies of the classification section of the manual may be obtained from the Underwriting Department of the State Fund, 5 South Last Chance Gulch, Helena, Montana 59601.

AUTH: Sec. 39-71-2315 and 2316 MCA; IMP, Sec. 39-71-2311 and 39-71-2316 MCA.

COMMENT: The agency commented stating that in discussions with the Legislative Auditor's Office, it was recommended that this rule be amended so that the State Fund could keep up with classification changes without the necessity of changing its rules each time. Therefore, the following language is recommended:

(3) The state fund staff shall assign its insureds to classifications contained in the classification section of the state compensation mutual insurance fund policy services underwriting manual issued July 1, 1991, and assign new or changed classifications as approved by the board. That section of the manual is hereby incorporated by reference. Copies of the classification section of the manual may be obtained from the Underwriting Department of the State Fund, 5 South Last Chance Gulch, Helena, Montana 59601.

RESPONSE: The comment has merit. The comment will allow the Board to reference class codes in existence as of a certain date but will also give the Board the flexibility to add new or changed classifications at board meetings without the necessity of perpetually changing the rule to keep up with class codes changes and additions. This also allows the State Fund to be more current in using class codes changes and additions as amending the rule causes unnecessary delays.

COMMENT: The Executive Director of the Montana Health Care Association commented in writing that the State Fund amend its rules to adopt the National Council on Compensation Insurance's Scopes of Basic Manual Classifications, together with such exceptions, changes and additions as are properly adopted by the Montana Classification and Rating Committee.

RESPONSE: The comment is overruled. The Scopes of Basic Manual Classifications would need to be incorporated by reference as is currently the classifications section of the Underwriting Manual in this rule. The size of the Scopes Manual would make it expensive to have available for interested persons. Therefore, as the State Fund currently has the classification codes in the Underwriting Manual and the manual is used by several hundred persons outside the State Fund, it would be more cost effective to continue with the incorporation of the classifications section out of the Underwriting Manual in the rules rather than start over with a

different manual. The Board will adopt any changes in classifications at a board meeting and it will then be easily ascertainable through a review of board minutes and periodic updates of the classifications section of the Underwriting Manual what new or changed codes are utilized by the State Fund. To reference the actions of another body makes it more difficult for most State Fund policyholders to keep track of changes. Particularly in that commentator raises the issue of whether the changes are "properly adopted" by the Classification and Rating Committee.

2.55.321 CALCULATION OF EXPERIENCE RATES

(1) through (2) remain the same as proposed.

AUTH: Sec. 39-71-2315 and 2316 MCA; IMP, Sec. 39-71-2311 and 2316 MCA.

2.55.322 CALCULATION OF CREDIBILITY WEIGHTED RATE

(1) If the payroll, premium, and losses in a particular classification are not sufficient to provide a meaningful and credible statistical basis for estimating an equitable distribution of costs, the state fund staff in consultation with the actuary and with approval of the board shall determine a credibility weighted rate for each classification. The credibility factors, approved by the board, may range from .01 through 1.00 and are based on graduated increments of expected liability. The expected liability is weighted selected payroll times the current manual rate times an expected loss rate recommended by the actuary and approved by the board. The experience rate times a credibility factor, plus the current manual rate times one minus the NCCI factor plus the existing NCCI rate times the NCCI factor all times one minus the credibility factor yields the credibility weighted rate for a class code. For Example: ER means experience rate; CF means credibility factor; MR means current state fund manual rate; NF means NCCI factor; and NR means current NCCI or other rating source rate. Credibility weighted rate equals $((MR \times (1 - NF)) + (NR \times NF)) \times (1 - CF) + [ER \times CF]$. The board will approve the NCCI factor. The state fund staff with approval of the board may substitute for an existing NCCI rate if another source of rates in use in Montana is more appropriate.

(2) Remains the same as proposed.

AUTH: Sec. 39-71-2315 and 2316 MCA; IMP, Sec. 39-71-2311 and 39-71-2316 MCA.

COMMENT: The Executive Director of the Montana Health Care Association commented in writing that the State Fund clarify the language outlining the formula for calculation of credibility weighted rates.

RESPONSE: The comment has some merit since neither of the formulas the commentator derived are correct. We will amend the rule. The following formula represents what the

rule states in words. For Example: ER means experience rate; CF means credibility factor; MR means current state fund manual rate; NF means NCCI factor; and NR means current NCCI or other rating source rate. Credibility weighted rate equals $\{[(MR \times (1 - NF)) + (NR \times NF)] \times [1 - CF]\} + [ER \times CF]$.

2.55.324 PREMIUM RATESETTING (1) through (3) remain the same as proposed.

(4) The state fund, subject to the approval of the state fund board of directors, may limit the percentage amount of premium rate increases or decreases if the limitation is applied to all classifications and the state fund is maintained on an actuarially sound basis. In establishing a limitation, the state fund may consider such factors as market share, catastrophic or unusual losses, rate stabilization, and economic impact on the state fund. The state fund board of directors will approve the limit any one large loss will impact the experience of a classification and apply the same limit to all classifications.

(5) through (6) remain the same as proposed.

AUTH: Sec. 39-71-2315 and 2316 MCA; IMP, Sec. 39-71-2211, 39-71-2311 and 2316 MCA.

COMMENT: The Executive Director of the Montana Health Care Association commented in writing to "Change sentence to read: The state fund board of directors may limit the impact any one large loss will have on the experience of a classification if the limitation is applied to all classifications and the state fund is maintained on an actuarially sound basis."

RESPONSE: The limitation is an integral part of the sharing of the risk concept of insurance. Therefore, it should not be discretionary. However, it would also be possible for the Board to set limits very high so as to lessen the impact. The addition of the language "actuarially sound basis" is unnecessary as it is a statutory requirement. However, to clarify that the limitation is to apply to all classifications, the following language will be added: "and apply the same limit to all classifications".

2.55.325 VARIABLE PRICING WITHIN A CLASSIFICATION

(1) through (5) remain the same as proposed.

AUTH: Sec. 39-71-2315 and 2316 MCA; IMP, Sec. 39-71-2311 and 2316 MCA.

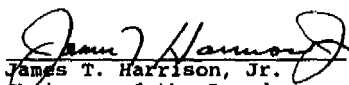
COMMENT: A policyholder made a general comment expressing concern over the State Fund's rules, the board, and the State Fund. It was stated each business should be rated on its own merit as far as determining the rate.

RESPONSE: The comment will be taken into consideration by the Board but as it is not directed at any specific rule, the Board is unable to make a specific response. However, the

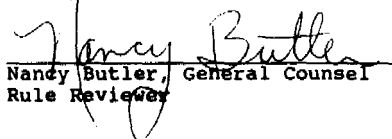
State Fund rates each business on its own merit through our experience modification system and tiered pricing.



Dal Smith, Chief Legal Counsel
Rule Reviewer



James T. Harrison, Jr.
Chairman of the Board



Nancy Butler, General Counsel
Rule Reviewer

Certified to the Secretary of State April 20, 1992.

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

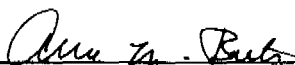
In the matter of the amendment) NOTICE OF AMENDMENT OF
of a rule pertaining to fees) 8.24.409 FEE SCHEDULE

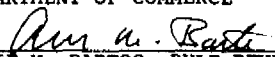
TO: All Interested Persons:

1. On February 27, 1992, the Board of Landscape Architects published a notice of proposed amendment of the above-stated rule at page 265, 1992 Montana Administrative Register, issue number 4.
2. The Board has amended the rule exactly as proposed.
3. No comments or testimony were received.

BOARD OF LANDSCAPE ARCHITECTS
BRUCE LUTZ, CHAIRMAN

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, April 20, 1992.

BEFORE THE BOARD OF RESPIRATORY CARE PRACTITIONERS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the adoption) NOTICE OF ADOPTION OF NEW
of new rule pertaining to) RULES PERTAINING TO THE
respiratory care practitioners) LICENSURE OF RESPIRATORY
) CARE PRACTITIONERS

TO: All Interested Persons:

1. On February 27, 1992, the Board of Respiratory Care Practitioners published a notice of public hearing on the proposed adoption of new rules for the board at page 272, 1992 Montana Administrative Register, issue number 4. The public hearing was held on April 3, 1992 at 10:00 a.m., in the downstairs conference room of the Department of Commerce, 1424 - 9th Avenue, Helena, Montana.

2. The Board has adopted new rules I (8.59.101), II (8.59.201), III (8.59.202), IV (8.59.401), VI (8.59.501), X (8.59.505), XVI (8.59.606), XVII (8.59.607), XVIII (8.59.506), XIX (8.59.701), XX (8.59.702), XXI (8.59.703), and XXII (8.59.403) exactly as proposed. The Board has adopted new rules V (8.59.402), VII (8.59.502), VIII (8.59.503), IX (8.59.504), XI (8.59.601), XII (8.59.602), XIII (8.59.603), XIV (8.59.604) and XV (8.59.605) as proposed but with the following changes:

"8.59.402 DEFINITIONS (1) through (3) will remain the same as proposed.

~~(a) Clinical supervision is required for temporary permit holders and students."~~

Auth: Sec. 37-28-102, 37-28-104, MCA; IMP, Sec. 37-28-102, MCA

"8.59.502 EXAMINATION (1) The board determines that a scaled score of 75 on a 0 to 99 scale of the certification examination for entry level respiratory therapy practitioners examination, utilized by the national board of respiratory care, shall be ~~adopted by reference~~ PREScribed as the accepted testing requirement for licensing in this state."

Auth: Sec. 37-28-104, MCA; IMP, Sec. 37-28-104, 37-28-202, MCA

"8.59.503 TEMPORARY PERMIT (1) through (5) will remain the same as proposed.

(6) Temporary permit holders AND STUDENTS must practice only under clinical supervision."

Auth: Sec. 37-28-104, MCA; IMP, Sec. 37-28-206, MCA

"8.59.504 RECIPROCITY (1) The board will grant a reciprocal license to applicants whose requirements in that state, territory or country, are not less than the requirements for licensure in the state of Montana OR WHO HOLD CREDENTIALS CONFERRED BY THE NATIONAL BOARD FOR RESPIRATORY CARE AS A CERTIFIED RESPIRATORY THERAPY TECHNICIAN OR A REGISTERED RESPIRATORY THERAPIST.

(2) will remain the same as proposed."

Auth: Sec. 37-28-104, MCA; IMP, Sec. 37-28-202, MCA

"8.59.601 CONTINUING EDUCATION REQUIREMENTS (1) Upon annual renewal of licensure, each respiratory care practitioner must document ~~15~~ 12 continuing education units in the preceding 12 months. One continuing education unit is equivalent to 50 minutes in length.

(2) and (3) will remain the same as proposed."

Auth: Sec. 37-28-104, MCA; IMP, Sec. 37-28-104, 37-28-203, MCA

"8.59.602 TRADITIONAL EDUCATION BY SPONSORED ORGANIZATIONS -- CATEGORY I (1) Continuing education programs sponsored by the following organizations are ~~presumed to be pre-~~approved by the board:

(1)(a) through (2) will remain the same as proposed."

Auth: Sec. 37-28-104, MCA; IMP, Sec. 37-28-104, 37-28-203, MCA

"8.59.603 NON-ACCREDITED SPONSORSHIPS TRADITIONAL EDUCATION BY NON-SPONSORED ORGANIZATIONS -- CATEGORY II

(1) ~~Non-accredited sponsorships~~ CONTINUING EDUCATION NOT SPONSORED BY ORGANIZATIONS DESIGNATED IN 8.59.602 should be submitted to the Montana board of respiratory care practitioners for its consideration for approval so that the board members may review the proposal.

(2) through (4) will remain the same as proposed."

Auth: Sec. 37-28-104, MCA; IMP, Sec. 37-28-104, 37-28-203, MCA

"8.59.604 TEACHING -- CATEGORY III (1) No more than ~~(10)~~ 8 credit units may be applied in this category based on a report by the licensee, with credit units being awarded on a two-to-one ratio. For a one hour presentation, the presenter will be awarded two credit units.

(2) through (4) will remain the same as proposed."

Auth: Sec. 37-28-104, MCA; IMP, Sec. 37-28-104, 37-28-203, MCA

"8.59.605 PAPERS, PUBLICATIONS, JOURNALS, EXHIBITS, VIDEOTAPES, INDEPENDENT STUDY AND COLLEGE COURSE WORK -- CATEGORY IV (1) A maximum of ~~(10)~~ 8 credit units not sponsored by organizations listed by ARM 8.59.602, may be applied in this ~~section~~ CATEGORY based upon report by the licensee.

(2) through (4) will remain the same as proposed."

Auth: Sec. 37-28-104, MCA; IMP, Sec. 37-28-104, 37-28-203, MCA

3. In addition, the Board voted to add section 37-28-104, MCA, as a code section implemented by ARM 8.59.606 and 8.59.703; to add section 37-28-206, MCA, as a code section implemented by ARM 8.58.506; and to delete sections 37-1-101 and 37-1-121, MCA, as authorizing sections for ARM 8.59.701 and replacing those sections with section 37-28-104, MCA.

4. The Board has thoroughly considered the written comments received by the deadline for submission of such documents and all testimony received at the public hearing. Those comments and the Board's responses thereto are as follows:

COMMENT: David Niss, staff attorney for the Administrative Code Committee, suggested moving the substantive requirement that students work only under clinical supervision, which had been proposed in the definition of clinical supervision found in ARM 8.59.402, to somewhere else in the regulations.

RESPONSE: The Board adopted this suggestion and voted to place the requirement of clinical supervision for students in ARM 8.59.503.

COMMENT: Mr. Niss further proposed that language adopting the certification examination for entry level respiratory therapy practitioners by reference in ARM 8.59.502 be stricken since adoption by reference would potentially breach security standards because members of the public would then be able to demand access to such an examination.

RESPONSE: The Board voted to strike the phrase "adopted by reference" and insert "prescribed" in its place.

COMMENT: Several members of the public attending the rule hearing suggested that the reciprocity process be eased for those individuals who are forced to travel throughout the interstate region for their job.

RESPONSE: The Board revised ARM 8.59.504 to include under reciprocity protection any individual credentialed by the national board for respiratory care as a certified respiratory therapy technician or registered respiratory therapy technician.

COMMENT: The Board received comments that 15 continuing education credits required annually as proposed would be an excessive and burdensome requirement on those practicing on small staffs in rural settings. Opposition was heard to the fact that the proposal provided no ability to carry over continuing education credits from one year to the next. One opponent also argued that a requirement of 15 credits per year incurs an exorbitant burden on the individual and proposed either that 15 continuing education credits be required over two years or 10 continuing education credits per year.

RESPONSE: The Board voted to revise the requirement from 15 continuing education units to 12 per year. It felt that this would relieve the crunch on small staffs in insuring that each individual secured his or her credits and negate the need to have carry-over credits. In addition, the Board voted to reduce the number of credits that could be obtained from teaching courses or submitting papers, publications, etc., (ARM 8.59.604 and 8.59.605) from 10 to 8. This reduction represents the same ratio as first proposed.

COMMENT: An opponent to ARM 8.59.605 cited an apparent inequality in the weighing of continuing education credits since a 50-minute seminar represents one continuing education unit while a credit of college course work equates to either one or one and one-half continuing education units depending on whether the college work is on a quarter or semester basis.

RESPONSE: The board took no action on this comment stating that college coursework is not designed primarily for continuing education purposes. The board expects continuing education to be more of a brush-up on a variety of subjects.

COMMENT: Individuals questioned if there was a time frame by which continuing education units not offered by organizations expressly approved by the board had to be submitted for pre-approval.

RESPONSE: The Board retained ARM 8.59.606 and stated that licensees need not obtain pre-approval for in-service sessions or other such continuing education so long as it satisfies objectives that the Board has stated constitute continuing education.

COMMENT: Individuals questioned the criteria for waiver of continuing education units, which in ARM 8.59.607 stated only "event of hardship such as a disabling illness or other personal emergency." It was suggested that this interferes with individuals' decisions to leave the work force to raise a family and that this problem might be resolved by an inactive license.

RESPONSE: The Board noted it was without authority to issue by rule an inactive license. In addition, the Board noted that it permitted four different manners by which continuing education may be obtained including such methods as hospital in-service sessions, and independent study and use of video tapes.

COMMENT: It was suggested that the fees contained in ARM 8.59.506 are excessive when compared to licensing fees paid by persons in other professions with the ability to demand higher salaries.

RESPONSE: The Board noted that section 37-1-134 requires licensing fees be set commensurate to program area costs. The fees represented are a best estimate as to the initial costs of operating the board, which is estimated will have about 300 licensees.

COMMENT: Mr. Niss, staff attorney for the Administrative Code Committee, suggested that language containing a presumption in ARM 8.59.602 be removed so that there's no question such courses will be credited and sought clarification as to the courses contemplated in ARM 8.59.603.

RESPONSE: The Board acceded to Mr. Niss' suggestions; it deleted the presumptive language in ARM 8.59.602 and stated such courses are approved. It clarified ARM 8.59.603 by revising the language from "non-accredited sponsorships" which was contained in the proposal to "traditional education by non-sponsored organizations." This rule permits organizations

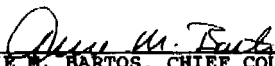
other than those listed in ARM 8.59.602 to offer continuing education for credit.

COMMENT: Mr. Niss also suggested the addition and deletion of authorization and implementation sections cited in paragraph 3 above.

RESPONSE: The Board adopted the comment and made the appropriate revisions.

BOARD OF RESPIRATORY CARE
PRACTITIONERS
RICH LUNDY, CHAIRMAN

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, April 20, 1992.

BEFORE THE MONTANA BOARD OF SCIENCE
AND TECHNOLOGY DEVELOPMENT
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the amendment	)	NOTICE OF AMENDMENT OF
of a rule pertaining to the	)	8.122.604 APPLICATION
interest rates imposed on seed	)	PROCEDURES FOR A SEED
capital project loans	)	CAPITAL TECHNOLOGY LOAN -
	)	BOARD ACTION

TO: All Interested Persons:

1. On January 30, 1992, the Montana Board of Science and Technology Development published a notice of proposed amendment of the above-stated rule at page 119, 1992 Montana Administrative Register, issue number 2.
2. The Board has amended the rule exactly as proposed.
3. No comments or testimony were received.

MONTANA BOARD OF SCIENCE
AND TECHNOLOGY DEVELOPMENT
RAY TILMAN, CHAIRMAN

BY:

Annie M. Bartos
ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE

Annie M. Bartos
ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, April 20, 1992.

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

In the matter of the amendment of	)	NOTICE OF AMENDMENT
rules 16.24.101-111, concerning	)	OF RULES
eligibility for the children's)	
special health services program,)	
payment for services, covered)	
conditions, record-keeping,)	
application procedure, advisory)	
committee, and fair hearings)	
	)	(Handicapped Children)

To: All Interested Persons

1. On March 12, 1992, the department published a notice at page 378 of the 1992 Montana Administrative Register, Issue No. 5, of the proposed amendment of the above-captioned rules.

2. After consideration of the comments received on the proposed rules, the department has adopted the rules as proposed with the following changes (new material is underlined; material to be deleted is interlined):

16.24.101 PURPOSE OF RULES same as proposed

16.24.102 GENERAL REQUIREMENTS FOR CSHS ASSISTANCE same as proposed

16.24.103 DEFINITIONS same as proposed

16.24.104 APPLICANT ELIGIBILITY same as proposed

16.24.105 CSHS SERVICES (1) To the extent CSHS funding allows and up to a maximum of \$12,000 per state fiscal year (unless the CSHS medical director grants a waiver), CSHS will pay for the cost of providing the following to an eligible client with a diagnosed condition, subject to the exclusions set out in (3) below and the payment limits set out in ARM 16.24.107:

(a)-(k) same as proposed

(l) rental for up to one year of breast pumps for breastfeeding mothers of infants with unrepaired cleft lips or other covered craniofacial anomalies who are unable to suck properly-i

(m) prosthetic devices;

(n) catheters for children otherwise eligible for CSHS benefits.

(2) same as proposed

(3) Excluded from CSHS benefits are:

(a)-(b) same as proposed

(c) all appliances, with the exception of orthopedic braces, prosthetic devices, and those appliances required for the correction of an orthodontic condition that affects an otherwise CSHS-covered condition, such as that caused by the presence of a cleft palate or another syndrome-caused cranio-

facial anomaly;

(d)-(h) same as proposed

(4) same as proposed

16.24.106 CSHS PROVIDER REQUIREMENTS same as proposed

16.20.107 PAYMENT LIMITS AND REQUIREMENTS (1)-(10) same as proposed

(11) In addition to the above, CSHS will pay:

(a)-(e) same as proposed

(f) 100% of the cost of syringes, reagent strips, dipsticks, gastrostomy tubing, catheters, and breast pump rental.

(12)-(14) same as proposed

16.24.108 APPLICATION PROCEDURE same as proposed

16.24.109 FAIR HEARING PROCEDURE same as proposed

16.24.110 PROGRAM RECORDS same as proposed

16.24.111 ADVISORY COMMITTEE same as proposed

3. Comments were received from Tamara Kittelson-Aldred, occupational therapist, requesting that coverage of prosthetic limbs and catheters be included, the latter in the same payment category as gastrostomy tubes. The department agreed and made the changes accordingly.

Dr. Kenneth Hunt expressed complete support for the rule amendments as proposed.


DENNIS IVERSON, Director

Certified to the Secretary of State April 20, 1992

Reviewed by:


Counsel for the Department

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA
IN AND FOR THE AREA OF

In the matter of the amendment)	NOTICE OF AMENDMENT OF
of Rules 24.5.316 and 24.5.323)	RULES OF THE WORKERS'
of the Workers' Compensation)	COMPENSATION COURT
Court.)	
)	


TO: All Interested Persons

1. On March 12, 1992, the Workers' Compensation Court published a Notice of Proposed Amendment of Rules ARM 24.5.316 and 24.5.323 at page 387, Montana Administrative Register, Issue No. 5 of 1992.

2. No public hearing was held but interested parties were asked to submit their data, views or arguments to the court in writing by April 13, 1992. No comments were received.

3. The Office of the Workers' Compensation Judge has amended the rules as proposed. The amendments to these rules are necessary in order to set forth the procedure for those proceedings appealed from the Department of Labor and Industry's decisions in the motion rule. The interrogatory rule change is to advise the parties that interrogatories and answers thereto need not be filed with the Court.

4. These rules become effective May 1, 1992.


TIMOTHY W. REARDON, JUDGE

April 14, 1992
CERTIFIED TO THE SECRETARY OF STATE

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA
IN AND FOR THE AREA OF

In the matter of the adoption)	NOTICE OF ADOPTION
of Rules 24.5.345 and 24.5.346,)	AND AMENDMENT
and amendment of Rules)	OF RULES OF THE
24.5.303, 24.5.308, 24.5.331,)	WORKERS' COMPENSATION
24.5.336, 24.5.343, 24.5.344,)	COURT
24.5.348 of the Workers')	
Compensation Court.)	

TO: All Interested Persons

1. On February 13, 1992, the Workers' Compensation Court published a Notice of Proposed Amendment of Rules ARM 24.5.303, 24.5.308, 24.5.331, 24.5.336, 24.5.343, 24.5.344, and 24.5.348; and adoption of Rules ARM 24.5.345 and 24.5.346 at page 186, Montana Administrative Register, Issue No. 3 of 1992. ARM 24.5.345 has been assigned the Writ of Execution Rule, and ARM 24.5.346 has been assigned the Stay of Judgment Pending Appeal rule. The proposed amendment to ARM 24.5.331 Subpoena has been withdrawn and no changes will be made.

2. No public hearing was held but interested parties were asked to submit their data, views or arguments to the court in writing by March 16, 1992. The court has considered all written commentary received subsequent to the original notice date and responds to those comments as follows:

COMMENT: Rule II (ARM 24.5.346) STAY OF JUDGMENT PENDING APPEAL, subsection (4). The proposed language provides, "Except as provided for herein, the procedure for requesting a stay and posting a supersedeas bond will be the same as the procedure in Rule 7(b), Montana Rules of Appellate Procedure." Rule 7(b) MRAP states the procedure for obtaining a supersedeas bond and does not state the procedure for requesting a stay. Rule 7(a) states the procedure for obtaining a stay. The information for requesting a stay should be included.

RESPONSE: The information for requesting a stay should be included and the rule will be amended to include a reference to subsection (a).

COMMENT: ARM 24.5.331 SUBPOENA, subsection (2)(a). The new language provided, "(a) A subpoena which is issued to obtain health care information regarding a claimant need not comply with the 10 day notice requirement of section 50-16-536, MCA. . . ." The Court's efforts to eliminate the burdensome, time consuming, and unnecessarily expensive requirements of the Health Care Records Act were applauded. However, it was questioned whether the Court has

the authority to waive the statutory notice requirement.

RESPONSE: The Court upon further consideration believes the proposed amendment to be unnecessary at this time.

3. The Office of the Workers' Compensation Judge has adopted and amended the rules as proposed with the following changes:

ARM 24.5.346 STAY OF JUDGMENT PENDING APPEAL (1) Same as existing rule.

(2) Same as existing rule.

(3) Same as existing rule.

(4) Except as provided for herein, the procedure for requesting a stay and the procedure for posting a supersedeas bond will be the same as the procedure in Rule 7(a) and 7(b), respectively, of the Montana Rules of Appellate Procedure.

AUTH: Sec. 2-4-201, MCA IMP: 2-4-201, MCA, 39-71-2901, MCA

The amendments to these rules are necessary in order to set forth the use of the facsimile in the court; to clarify the procedure to be followed when joining a third party; and to harmonize the deadlines and procedures that are to be followed when submitting findings and conclusions, attorney fee requests, a petition for new trial or request to amend, and an appeal to the Supreme Court.

The adoption of the rules regarding the Writ of Execution and Stay of Judgment Pending Appeal are necessary in order to advise the practitioner and general public of the court's procedures.

4. These rules become effective May 1, 1992.



TIMOTHY W. BEARDON, JUDGE

April 14, 1992
CERTIFIED TO THE SECRETARY OF STATE

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

In the Matter of Amendment of)	NOTICE OF AMENDMENT OF RULE
Rule 38.5.2405 Regarding)	ON AVERAGE COSTS PER
Average Costs and Permissible)	UTILITY LINE OR POLE TO
Utility Charges to Accommodate)	ACCOMMODATE MOVEMENT OF
House and Structure Moves.)	STRUCTURES

TO: All Interested Persons

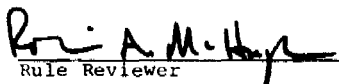
1. On February 27, 1992 the Department of Public Service Regulation published notice of the proposed amendment to rule 38.5.2405 at page 294, issue number 4 of the Montana Administrative Register.

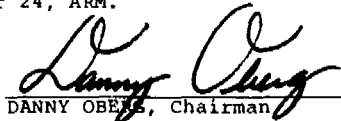
2. The Department has adopted the rule as proposed.

3. Comment: Only one comment was received, alleging that the requirement for house-movers to share in the expense of moving utility lines/power poles subsidizes big utilities at the expense of the "working class" house-movers. The commentator also alleged that "wire-raising" charges were determined illegal by the Supreme Court.

Response: In Yellowstone Valley Electric v. Ostermiller, 187 Mont. 8, 608 P.2d 491 (1980), the Montana Supreme Court affirmed a lower court holding that § 69-4-603, MCA, which requires utilities to raise or move electrical lines for large structure moves on public highways, was a valid exercise of police power. The Court stated that it would be burdensome to impose (all) the costs on the moving companies, as requested by the utilities, and that the utilities reasonably could spread the burdens of § 69-4-603, MCA, among their consumers. However, § 69-4-603, MCA, was amended in 1983 to require that "the necessary and reasonable expenses associated with movement of structures requiring wires, cables, or poles to be moved or raised pursuant to sections 69-4-601 through 69-4-604, MCA, be shared equally [by the owner of the structure and the owner(s) of the wires, cables or poles...]." Further, the legislature deemed it a public purpose that the owners desiring to move their structures pay 50% of these necessary and reasonable expenses of cutting and/or raising wires and cables or moving poles to accomplish the moves. The Legislature determined it an unreasonable burden to place all the costs on the utilities and their ratepayers. (Preamble: Ch. 442, L. 1983).

No case law since 1983 challenges the legislative fiat that the costs should be shared by the utilities and movers, equally. Therefore, the Commission has proceeded since 1983 to determine the average costs pursuant to § 69-4-603, MCA, and Title 38, chapter 5, subchapter 24, ARM.


Rule Reviewer


DANNY OBERE, Chairman

CERTIFIED TO THE SECRETARY OF STATE APRIL 20, 1992.

8-4/30/92

Montana Administrative Register

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMENDMENT)	NOTICE OF THE AMENDMENT of
ARM 42.20.423; 42.23.444;)	ARM 42.20.423; 42.20.444;
and 42.20.468 relating to the)	and 42.20.468 relating to
Sales Assessment Ratio Study)	the Sales Assessment Ratio
Rules for 1992)	Study Rules for 1992

TO: All Interested Persons:

1. On January 30, 1992, the Department published notice of the proposed amendment of ARM 42.20.423; 42.20.444; and 42.20.468 relating to the sales assessment ratio study at page 123 of the 1992 Montana Administrative Register, issue no. 2.

2. A Public Hearing was held on February 20, 1992, to consider the proposed amendments. Public comments were received at this hearing.

3. The Department adopts ARM 42.20.423 and 42.20.444 as proposed. After review of the comments received, the Department has determined that further amendments are required for ARM 42.20.468. Those amendments are reflected below.

42.20.468 PERCENTAGE ADJUSTMENTS FOR THE ~~1991~~ 1992 TAX YEAR

(1) FOR EACH AREA, THE ADJUSTMENT MULTIPLIER REFERS TO THE ADJUSTMENT FOR TAX YEAR 1992. THE 1992 COMPOSITE FACTOR REPRESENTS THE CHANGE IN ASSESSED VALUE FROM TAX YEAR 1986 TO TAX YEAR 1992 DUE TO SALES ASSESSMENT RATIO STUDY ADJUSTMENT MULTIPLIERS. MULTIPLYING THE TAX YEAR 1986 ASSESSMENT BY THE TAX YEAR 1992 COMPOSITE FACTOR WILL RESULT IN THE TAX YEAR 1992 ASSESSMENT. THE COMPOSITE FACTOR IS THE PRODUCT OF THE CURRENT ADJUSTMENT MULTIPLIER AND ALL PREVIOUS ADJUSTMENT MULTIPLIERS. IT IS CALCULATED BY MULTIPLYING ALL FIVE ADJUSTMENT MULTIPLIERS FROM 1988 TO 1992 TO CREATE THE SINGLE COMPOSITE FACTOR. SOME CURRENT AREAS MAY HAVE MORE THAN ONE 1992 COMPOSITE FACTOR LISTED. IN THIS CASE, THE MAKEUP OF THE CURRENT AREA CONTAINS A MIXING OF PORTIONS OF TWO OR MORE PREVIOUS AREAS AS A RESULT OF AREA BOUNDARY CHANGES DUE TO CHAPTER 636, 1989 AND CHAPTER 680, 1991. SINCE THE PREVIOUS AREAS HAD DIFFERENT ADJUSTMENT MULTIPLIERS, THE CURRENT AREA WILL HAVE MORE THAN ONE 1992 COMPOSITE FACTOR.

(a) The following table reflects the sales assessment ratios and the adjustment multipliers (percentage adjustments converted to decimal form) as calculated in conformance with the provisions of 15-7-111, MCA, for each of the areas specified in ARM 42.20.438 Designated Areas - Residential.

(a b) Residential area results for tax year ~~1991~~ 1992:

AREA NO.	AREA	Sales Assessment Ratio	Adjustment Multipliers	1992 COMPOSITE FACTOR
1.0	Carbon County	*	*	*
2.0	Rural Cascade County	.9299	1.03	1.1031
2.1	Downtown Great Falls	1.0104	1.00	*
2.2	Great Falls East	.9782	1.00	*
2.3	Great Falls South	1.0029	1.00	1.2480
2.4	Great Falls Southwest	.9525	1.00	1.1227
2.5	Great Falls West	.9291	1.03	1.1241
2.6	Great Falls Northwest	.9445	1.01	1.1629
3.0	Remainder of Gallatin	.9365	1.02	1.1136
3.1	Bozeman Fringe and Canyon	.9097	1.05	1.2886
3.2	West & East rural Gallatin	.8867	1.08	1.1791
3.3	Bozeman	.8830	1.08	1.3180
3.4A	Big Sky Area	.8973	1.06	1.4134
3.4B	BIG SKY AREA	.8973	1.06	1.3655
4.0	Jefferson County	1.0328	1.00	1.0735
5.0	Rural Lewis and Clark	1.0258	1.00	1.0400
5.1	Urban Helena	.9521	1.00	1.0400
6.0	Lincoln County	.9834	1.00	0.9600
7.0	Northwest Madison County	.9346	1.02	1.0200
7.1	Southeast Madison County	.9850	1.00	1.1286
8.0	Rural Missoula County	.9909	1.00	1.1445
8.1	Eastern Urban Missoula	.9128	1.05	1.1235
8.2	Central Urban Missoula	.8936	1.07	1.0914
8.3	Western Urban Missoula	.9311	1.02	1.1016
9.0	Remainder of Silver Bow County	.9708	1.00	1.0609
9.1	Butte Flats and Westside	.9991	1.00	1.1514
10.0	Stillwater County	.9590	1.00	0.9300
11.0	Rural Yellowstone County	.9718	1.00	0.9021
11.1C	Billings Lockwood	.9428	1.01	0.8636
11.1D	BILLINGS LOCKWOOD	.9428	1.01	0.8454
11.2C	Billings South Side	.9693	1.00	0.8170
11.2D	BILLINGS SOUTH SIDE	.9693	1.00	0.7998
11.3C	Billings South West Side	.9720	1.00	0.9215
11.3D	BILLINGS SOUTH WEST SIDE	.9720	1.00	0.9021
11.4C	Billings West Side	.9643	1.00	0.9405
11.4D	BILLINGS WEST SIDE	.9643	1.00	0.9207
11.5C	Billings Heights	.9955	1.00	0.9215
11.5D	BILLINGS HEIGHTS	.9955	1.00	0.9021
11.6	Laurel	.9615	1.00	0.9021
12.0	Mineral and Sanders	.9597	1.00	0.9696
13.0	Rural Flathead County	.9376	1.02	1.2452
13.1	Kalispell Area	.9594	1.00	1.1128
13.2	Columbia Falls	.9612	1.00	1.0500
14.0E	Fergus, Golden Valley, Judith Basin, Musselshell, Petroleum, Sweet Grass,	.9646	1.00	1.0000

Treasure and Wheatland			
14.0F	FERGUS, GOLDEN VALLEY, .9646	1.00	0.9300
	JUDITH BASIN, MUSSELSHELL,		
	PETROLEUM, SWEET GRASS,		
	TREASURE AND WHEATLAND		
14.0G	FERGUS, GOLDEN VALLEY, .9646	1.00	0.8600
	JUDITH BASIN, MUSSELSHELL,		
	PETROLEUM, SWEET GRASS,		
	TREASURE AND WHEATLAND		
15.0	Beaverhead, Broadwater, .9733	1.00	1.0000
	Deer Lodge, Granite,		
	Meagher, Park and Powell		
16.0H	Blaine, Glacier, 1.0302	1.00	1.0000
	Phillips and Roosevelt		
16.0I	BLAINE, GLACIER, 1.0302	1.00	0.8600
	PHILLIPS AND ROOSEVELT		
17.0	Big Horn and Rosebud .9597	1.00	0.8944
18.0	Dawson, Fallon, Powder 1.0291	1.00	0.7577
	River, Richland and		
	Wibaux		
19.0	Chouteau, rural Hill, .9606	1.00	1.0000
	Liberty, Pondera,		
	Teton and Toole		
19.1	Greater Havre .9446	1.01	1.0100
20.0	Carter, rural Custer, 1.0423	1.00	0.8344
	Daniels, Garfield,		
	McCone, Prairie,		
	Sheridan and Valley		
20.1	Miles City .9548	1.00	0.7841
21.0	Lake County .9481	1.00	1.0400
22.0	Ravalli County .9519	1.00	1.0500

EXPLANATION OF THE SPECIFIC DESIGNATIONS WITHIN THE TABLE ARE:

* A selective reappraisals will determine the value of residential property in Area No. ~~2.1 and 2.2~~ 1.0 for tax year ~~1991~~ 1992.

A - THIS REFERS TO THE PORTION (GALLATIN COUNTY) OF THE CURRENT AREA THAT HAD AN ADJUSTMENT MULTIPLIER OF 1.18 FOR TAX YEAR 1990.

B - THIS REFERS TO THE PORTION (MADISON COUNTY) OF THE CURRENT AREA THAT HAD AN ADJUSTMENT MULTIPLIER OF 1.14 FOR TAX YEAR 1990.

C - THESE REFER TO THE PORTION (WITHIN CITY OF BILLINGS) OF THE CURRENT AREA THAT HAD AN ADJUSTMENT MULTIPLIER OF 0.95 FOR TAX YEAR 1988.

D - THESE REFER TO THE PORTION (OUTSIDE CITY OF BILLINGS) OF THE CURRENT AREA THAT HAD AN ADJUSTMENT MULTIPLIER OF 0.93 FOR TAX YEAR 1988.

E - THIS REFERS TO THE PORTION (ALL BUT MUSSELSHELL, PETROLEUM AND TREASURE COUNTIES) OF THE CURRENT AREA THAT HAD AN ADJUSTMENT MULTIPLIER OF 1.000 FOR TAX YEAR 1988.

F - THIS REFERS TO THE PORTION (MUSSELSHELL AND TREASURE COUNTIES) OF THE CURRENT AREA THAT HAD AN ADJUSTMENT MULTIPLIER OF 0.9300 FOR TAX YEAR 1988.

G - THIS REFERS TO THE PORTION (PETROLEUM COUNTY) OF THE CURRENT AREA THAT HAD AN ADJUSTMENT MULTIPLIER OF 0.8600 FOR TAX YEAR 1988.

H - THIS REFERS TO THE PORTION (BLAINE AND GLACIER COUNTIES) OF THE CURRENT AREA THAT HAD AN ADJUSTMENT MULTIPLIER OF 1.0000 FOR TAX YEAR 1988.

I - THIS REFERS TO THE PORTION (PHILLIPS AND ROOSEVELT COUNTIES) OF THE CURRENT AREA THAT HAD AN ADJUSTMENT MULTIPLIER OF 0.8600 FOR TAX YEAR 1988.

(b c) Commercial area results for tax year ~~1991~~ 1992:

AREA NO.	AREA	Sales Assessment Ratio	Adjustment Multipliers	1992 COMPOSITE FACTOR
100	Silver Bow, and Lewis and Clark Counties	.9912	1.00	1.0300
200	Cascade County	1.0347		
300A	Yellowstone County	1.0251	1.00	1.0000
300B	YELLOWSTONE COUNTY	1.0251	1.00	0.7505
400	Missoula County	.9550	1.00	0.7347
500C	Beaverhead, Broadwater, Deer Lodge, Granite, Jefferson, Lake, Lincoln, Madison, Meagher, Mineral, Park, Powell, Ravalli and Sanders	.9584	1.00	1.0000
500D	BEAVERHEAD, BROADWATER, DEER LODGE, GRANITE, JEFFERSON, LAKE, LINCOLN, MADISON, MEAGHER, MINERAL, PARK, POWELL, RAVALLI AND SANDERS	.9584	1.00	1.0000
600	Gallatin	.9538	1.00	0.9600
700	Flathead County	.9841	1.00	
800E	All other counties	1.0700	.98	1.0000
800F	All other counties	1.0700	.98	0.7603
800G	All other counties	1.0700	.98	0.8841
				0.8222

A - THIS REFERS TO THE PORTION (WITHIN CITY OF BILLINGS) OF THE CURRENT AREA THAT HAD AN ADJUSTMENT MULTIPLIER OF 0.95 FOR TAX YEAR 1988.

B - THIS REFERS TO THE PORTION (OUTSIDE CITY OF BILLINGS) OF THE CURRENT AREA THAT HAD AN ADJUSTMENT MULTIPLIER OF 0.93 FOR TAX YEAR 1988.

C - THIS REFERS TO THE PORTION (ALL BUT LINCOLN, MINERAL AND SANDERS COUNTIES) OF THE CURRENT AREA THAT HAD AN ADJUSTMENT MULTIPLIER OF 1.00 FOR TAX YEAR 1988.

D - THIS REFERS TO THE PORTION (LINCOLN, MINERAL AND SANDERS COUNTIES) OF THE CURRENT AREA THAT HAD AN ADJUSTMENT MULTIPLIER OF 0.96 FOR TAX YEAR 1988.

E - THIS REFERS TO THE PORTION (ALL BUT BLAINE, CARBON, CHOUTEAU, FERGUS, GLACIER, GOLDEN VALLEY, HILL, JUDITH BASIN, LIBERTY, MUSSELSHELL, PONDERA, STILLWATER, SWEETGRASS, TETON, TOOLE, TREASURE AND WHEATLAND COUNTIES) OF THE CURRENT AREA THAT HAD AN ADJUSTMENT MULTIPLIER OF 0.8600 FOR TAX YEAR 1988.

F - THIS REFERS TO THE PORTION (BLAINE, CHOUTEAU, FERGUS, GLACIER, GOLDEN VALLEY, HILL, JUDITH BASIN, LIBERTY, PONDERA, SWEETGRASS, TETON, TOOLE AND WHEATLAND COUNTIES) OF THE CURRENT AREA THAT HAD AN ADJUSTMENT MULTIPLIER OF 1.0000 FOR TAX YEAR 1988.

G - THIS REFERS TO THE PORTION (CARBON, MUSSELSHELL, STILLWATER AND TREASURE COUNTIES) OF THE CURRENT AREA THAT HAD AN ADJUSTMENT MULTIPLIER OF 0.9300 FOR TAX YEAR 1988.

AUTH: Sec. 15-1-201 MCA; IMP, Sec. 15-7-111 MCA.

4. Oral and written comments received during and subsequent to the hearing are summarized as follows along with the response of the Department:

COMMENT: It doesn't appear the department considers the properties that have been sold under duress. It doesn't appear to be a fair valuation without presenting the duress properties in the valuation.

RESPONSE: As required by law, the Department uses valid, arm's-length sales in its sales assessment ratio studies. Guidelines published by the International Association of Assessing Officers are used to determine valid, arms-length sales. Non-arm's-length or invalid sales, including sales under duress, are not representative of the market and compromise the sales assessment ratio studies.

COMMENT: It appears the department will have a difficult time reappraising all the properties as proposed next year. We would like to know how the reappraisal matter will be approached by the department.

RESPONSE: The Department will be completing the third reappraisal cycle in 1993. This includes the reappraisal of all taxable residential, commercial, and agricultural real property in Montana. A computer assisted mass appraisal system is being used to aid in determining the market value of these properties. All three standard approaches to value--cost, market, and income--will be considered. The Department expects to complete reappraisal on time.

COMMENT: Many people are not aware of the appeals process. It appears that if the department doesn't like the decision that is issued by the county tax appeal boards the department appeals the decision. This doesn't seem fair. The members of these boards are fair concerned citizens and believe they are doing a good job.

RESPONSE: Property owners will receive a new property assessment notification form this year which clearly explains their appeal rights.

The Department respects decisions of the County Tax Appeal Boards. Before appealing a county board decision, the Department considers the statewide impact of county board decisions as well as equalization among similarly situated property owners. Normally, the department limits its appeals to cases with important questions of law or equalization.

COMMENT: Three years ago the department raised Big Sky up 18 percent. So in order to lower them the department threw in the southeastern part of Madison County which brought Big Sky down, but raised the southeastern part of Madison County up. Last year the department divided Big Sky off by itself and used a portion of Gallatin County. The southeastern portion of Madison County went down 1%, where it was raised 13% the year before. In that area of Madison County there are tax deeds on many, many properties, many foreclosures, and the department does not take this into consideration. There are some very expensive homes over there and that is what the sales assessment ratio is figured on. None of these other things are considered and we believe that is a vast injustice to the people of Madison County.

RESPONSE: Each year the Department must evaluate sales assessment ratio study area assignments. The law requires that the areas be as economically and demographically homogeneous as reasonably practicable and contain a statistically sufficient number of sales. In assigning areas, the Department carefully considers these requirements along with information received at public hearings.

In 1990, the Department divided Madison County into two ratio study areas; northwest and southeast. The southeast area included the recreational areas of the Madison River and the Big Sky resort area. In 1991, after receiving comments from county officials and the public, the Department determined that property in Big Sky wasn't, at that time, homogeneous with other areas in Madison and Gallatin Counties. Therefore, Big Sky was designated a separate area. For the 1992 ratio studies, the Big Sky properties in Madison County continued to be considered separately from the other properties in Madison County.

The ratio studies are prepared using sales from all types of residences, not just expensive ones.

COMMENT: A property owner testified that some people are concerned about the "drive by" appraisals which have occurred in the past, and will this be the same process in 1994 when the individual appraisals are conducted? Is the 1994 reappraisal going to be property by property or is it going to be someone pushing a button on a computer and rationing these things out.

RESPONSE: The characteristics of each of the over 700,000 individual properties in Montana are gathered by appraisers and placed in the computer assisted mass appraisal system in the county appraisal offices. This includes property measurements,

age, condition, style, etc. In addition, information on the sale of properties and income produced by commercial properties is also entered by the county appraisal office.

With this information the county appraiser, aided by the computer, is able to determine the market value of each property. The appraiser can value property using any of the standard approaches to value--cost, sales (market), or income. The Department intends to use sales information to determine market value when it is available. In areas of the state where there are sufficient sales, the sales of 5 comparable properties are used to value a residential property.

Once the market value is determined, if time permits, appraisers will make an on-site review of the property to confirm the value. Ratio study adjustments will not be used to determine the reappraised values.

COMMENT: Is the record card available for review by the owner of the property? Can I go in and look at mine? Can I go in and look at yours? Can I go and ask the assessor or the appraiser or whoever has these if I can see comparable cards for the property that I'm concerned with?

RESPONSE: Information on the characteristics and values of individual real properties is available at the local County Appraisal Office. With the exception of confidential sales and income information, the property records are public records and available on request.

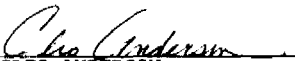
COMMENT: Why are duplexes which are rental properties presumably for the production of income -- doesn't always work out that way, but that's the intent -- why are they not classified as commercial? Why are they residential? The Department ought to be consistent in this area.

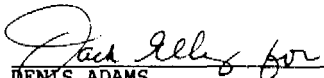
RESPONSE: For the purpose of developing sales assessment ratio studies, duplexes are considered commercial properties.

COMMENT: A property owner stated his concern with the process is that, not this year but last year, his taxes increased by 45% in one lump sum and this may be attributed to certain mill levies and different things. This makes it impossible for a person to run a business in an area where the taxes are this high. He stated that he believes the department will still have problems with the three year cycle. It doesn't appear that it will be any easier to get it done under the new system, but whatever is done, we need a fair and equal appraisal done of all the properties.

RESPONSE: Property appraisals serve as the vehicle to distribute the cost of providing local government and educational services among property owners. The anticipated cost of these services determines the tax rates or mill levies. The Department's appraisals, by law, must be at market value. If all properties are appraised at market value, the system is fair and equitable. The Department believes with the aid of the computer assisted mass appraisal system market values can be determined every three years.

4. Therefore, the Department adopts the rules with the amendments listed above.


CLEO ANDERSON
Rule Reviewer


DENNIS ADAMS
Director of Revenue

Certified to Secretary of State April 20, 1992

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 rule 46.10.409	)	RULE 46.10.409 PERTAINING
pertaining to transitional	)	TO TRANSITIONAL CHILD CARE
child care)	

TO: All Interested Persons

1. On March 12, 1992, the Department of Social and Rehabilitation Services published notice of the proposed amendment of rule 46.10.409 pertaining to transitional child care at page 400 of the 1992 Montana Administrative Register, issue number 5.

2. The Department has amended rule 46.10.409 as proposed.

3. No written comments or testimony were received.

Dawn Silvia
Rule Reviewer

Julia E. Robinson
Director, Social and Rehabilitation Services

Certified to the Secretary of State April 20, 1992.

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 rule 46.10.510	)	RULE 46.10.510 PERTAINING
pertaining to excluded	)	TO EXCLUDED EARNED INCOME
earned income)	

TO: All Interested Persons

1. On March 12, 1992, the Department of Social and Rehabilitation Services published notice of the proposed amendment of rule 46.10.510 pertaining to excluded earned income at page 391 of the 1992 Montana Administrative Register, issue number 5.

2. The Department has amended rule 46.10.510 as proposed.

3. No written comments or testimony were received.

Dawn Sliva
Rule Reviewer

Julie E. Roberts
Director, Social and Rehabilitation Services

Certified to the Secretary of State April 20, 1992.

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

In the matter of the	)	NOTICE OF THE
adoption of Rule I and the	)	ADOPTION OF RULE I AND THE
amendment of Rules	)	AMENDMENT OF RULES
46.10.803, 46.10.805 and	)	46.10.803, 46.10.805 AND
46.10.811 pertaining to the	)	46.10.811 PERTAINING TO THE
alternative work experience	)	ALTERNATIVE WORK EXPERIENCE
program	)	PROGRAM

TO: All Interested Persons

1. On March 12, 1992, the Department of Social and Rehabilitation Services published notice of the proposed adoption of Rule I and the amendment of Rules 46.10.803, 46.10.805 and 46.10.811 pertaining to the alternative work experience program at page 396 of the 1992 Montana Administrative Register, issue number 5.

2. The Department has adopted the following rule as proposed with the following changes to the authorizing and implementing statutes:

[RULE I] 46.10.808 ALTERNATIVE WORK EXPERIENCE PROGRAM
[ANEP] Subsections (1) through (4) remain as proposed.

AUTH: Sec. 53-4-212 and 53-4-719 MCA
IMP: Sec. 53-2-201, 53-4-703 and 53-4-705 MCA

3. The Department has amended the following rules as proposed with the following changes to the authorizing and implementing statutes:

46.10.803 DEFINITIONS Subsections (1) through (36) remain as proposed.

AUTH: Sec. 53-4-212 and 53-4-719 MCA
IMP: Sec. 53-2-201, 53-4-211, 53-4-215, 53-4-703,
53-4-705, 53-4-707, 53-4-708, 53-4-715 and 53-4-720 MCA

46.10.805 ELIGIBILITY, EXEMPT STATUS Subsections (1) through (10) remain as proposed.

AUTH: Sec. 53-4-212 and 53-4-719 MCA
IMP: Sec. 53-2-201, 53-4-211, 53-4-215, 53-4-703,
53-4-706, 53-4-707, 53-4-708, 53-4-715, 53-4-717 and 53-4-720
MCA

46.10.811 UNEMPLOYED PARENTS TRACK PARTICIPATION AND OTHER REQUIREMENTS Subsections (1) through (6) remain as proposed.

AUTH: Sec. 53-4-212 and 53-4-719 MCA

IMP: Sec. 53-2-201, 53-4-211, 53-4-215, 53-4-703, 53-4-705, 53-4-706, 53-4-707 and 53-4-720 MCA

4. The Department has thoroughly considered all commentary received:

COMMENT: The department received the comment that the wrong implementing statutes were cited in the first notice.

RESPONSE: The department agrees and has changed the rules accordingly.

James Blavin
Rule Reviewer

Julia E. Roberson
Director, Social and Rehabilitation Services

Certified to the Secretary of State April 20, 1992.

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 rule 46.12.1607	)	RULE 46.12.1607 PERTAINING
pertaining to medicaid	)	TO MEDICAID REIMBURSEMENT
reimbursement to rural	)	TO RURAL HEALTH CLINICS
health clinics)	

TO: All Interested Persons

1. On March 12, 1992, the Department of Social and Rehabilitation Services published notice of the proposed amendment of rule 46.12.1607 pertaining to medicaid reimbursement to rural health clinics at page 394 of the 1992 Montana Administrative Register, issue number 5.
2. The Department has amended rule 46.12.1607 as proposed.
3. No written comments or testimony were received.

Dawn Ellis
Rule Reviewer

Julia E. Robens
Director, Social and Rehabilitation Services

Certified to the Secretary of State April 20, 1992.

BEFORE THE DEPARTMENT OF
STATE LANDS OF THE
STATE OF MONTANA

In the matter of the Petition)
for Declaratory Ruling)
concerning Forest Land Use)
Authorization Nos. 3060518)
and 3060911)

DECLARATORY
RULING

Introduction

1. On January 23, 1992, Petitioner George R. Madden of Sula, Montana, filed a Petition for Declaratory Ruling concerning the applicability of the Montana Environmental Policy Act (MEPA), Title 75, Chapter 1, MCA, to State Forest Land Use Authorization Nos. 3060518 and 3060911. These authorizations are grazing licenses for certain lands within the Sula State Forest. Mr. Madden currently holds these licenses.

2. The grazing licenses authorize the licensee to graze livestock on the tracts. After acquiring the licenses by assignment from the former licensee in 1991, the Petitioner began grazing domestic sheep on the state lands. A conservation group asserted that Petitioner's sheep constitute a threat to a herd of bighorn sheep who normally range to within two miles of the state land. The group alleged that the Department violated MEPA by failing to prepare an environmental assessment (EA) or an environmental impact statement (EIS) at the time of license renewal in 1989 or license assignment in 1991. The Department and the conservation group entered into a Memorandum of Agreement in which the Department agreed to prepare an EA on the impacts of domestic sheep. The Department is currently preparing the EA.

Questions presented:

Petitioner requests declaratory rulings on the following issues:

(1) Does the issuance, renewal, assignment, or cancellation of a grazing license constitute a "major action of state government" under §75-1-201(1)(b)(iii), MCA, or an "action" under ARM 26.3.642(1)?

(2) Does the Memorandum of Agreement between the Department and the conservation group provide sufficient basis for MEPA review?

(3) Do the Department's responsibilities under §§77-6-101, 77-6-102, 77-6-113, 77-6-205, 77-6-206, and 77-6-210, MCA, and ARM 26.3.130, 26.3.144, 26.3.145, and 26.3.148 preempt MEPA with regard to these grazing licenses?

(4) Does the Department have authority to consider impacts on bighorn sheep?

(5) What procedures will the Department follow in conducting its MEPA review?

(6) What procedure would the Department follow if it is decided to cancel the grazing licenses?

DECLARATORY RULINGS

Pursuant to § 2-4-501, MCA, the Department issues the following declaratory rulings:

1. Issuance of a grazing license is expressly included within ARM 26.4.642(1) and is therefore an "action" under that rule.

2. An assignment or a renewal of a grazing license is an "activity involving . . . entitlement for use" of state land and approval thereof is an "action" under ARM 26.4.642(1).

3. Cancellation of a land use license is not an action under ARM 26.4.642(1) and therefore cannot be a "major action of state government" under §75-1-201(1)(6)(iii), MCA.

4. Under ARM 26.3.144, the renewal of a grazing license is a "ministerial action," as defined in ARM 26.2.644(5)(e). It therefore cannot be a "major action of state government" under § 75-1-201-(1)(b)(iii), MCA; and, pursuant to ARM 26.2.644(5), is not subject to the EA or EIS requirements.

5. Because the issuance and assignment of a grazing license is not a ministerial action and the activities authorized pursuant to those actions could have significant impact on the human environment, issuance or assignment may, in certain instances, constitute major actions of state government under 75-1-201(1)(b)(iii), MCA.

6. The Department declines to issue a declaratory ruling on the question of whether the Memorandum of Agreement constitutes sufficient basis for preparation of the EA. The Memorandum of Agreement is not the basis for preparation of the EA. ARM 26.2.643(2)(a) authorizes the Department to prepare an EA for the purpose of using the natural sciences in its decision-making. In determining an appropriate course of action in this situation, the Department has chosen to prepare an EA to provide a factual and scientific basis for its decision.

7. Sections 77-6-101, 77-1-102, 77-6-113, 77-6-205, 77-6-206, and 77-6-210, MCA, do not apply to lands classified pursuant to § 77-1-401, MCA, as timberlands and therefore do not preempt MEPA with regard to grazing licenses on the Sula State Forest.

8. ARM 26.3.130 does not apply to grazing licenses and therefore does not preempt MEPA with regard to the grazing licenses.

9. ARM 26.3.144 requires the Department to renew a grazing license upon application if the requirements of the rules have been met. This creates in the Department a ministerial duty which under ARM 26.2.644(5) is not subject to EA or EIS requirements.

10. ARM 26.3.145 authorizes, but does not require, approval of an application for assignment of a grazing

license. The rule therefore does not preempt MEPA, the requirement to prepare an EA or the requirement to prepare an EIS in certain circumstances.

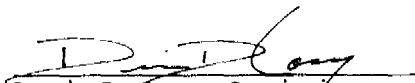
11. ARM 26.3.147 authorizes cancellation of grazing licenses. Because cancellation of a grazing license is not an "action" under ARM 26.2.642(1), MEPA does not require preparation of an EA or EIS on a grazing license cancellation. However, ARM 26.2.643(2)(a) authorizes preparation of an EA on a decision of whether to cancel a grazing license.

12. Section § 75-1-201(2)(6)(i) requires the Department to use the "natural sciences" in decision-making. ARM 26.2.6-42(12) includes with the definition of "human environment" the "biological . . . factors that interact to form the environment." ARM 26.2.645(2)(d) authorizes an EA to evaluate impacts on "terrestrial and aquatic life and habitats." The Department therefore has authority to consider impacts on bighorn sheep.

13. In preparing the EA, the Department will follow the applicable provisions of ARM 26.2.645 and 26.2.646.

14. The procedure that the Department uses in canceling a grazing license is contained in ARM 26.3.148.

Dated this 15th day of April, 1992.


Dennis D. Casey, Commissioner

Certified to the Secretary of State April 20, 1992.

NOTICE OF FUNCTIONS OF ADMINISTRATIVE CODE COMMITTEE

The Administrative Code Committee reviews all proposals for adoption of new rules, amendment or repeal of existing rules filed with the Secretary of State, except rules proposed by the Department of Revenue. Proposals of the Department of Revenue are reviewed by the Revenue Oversight Committee.

The Administrative Code 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 lists 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 Administrative Procedure Act for inclusion in the ARM. The ARM is updated through December 31, 1991. This table includes those rules adopted during the period January 1, 1992 through March 31, 1992 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 December 31, 1991, 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 1991 and 1992 Montana Administrative Registers.

ADMINISTRATION, Department of, Title 2

- 2.21.619 and other rules - Holidays, p. 351
- 2.21.1803 and other rule - Sick Leave Fund, p. 353
- 2.21.5007 Reduction in Work Force, p. 719
- 2.21.6607 and other rules - Record Keeping, p. 2516
(Public Employees' Retirement Board)
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BOARD APPOINTEES AND VACANCIES

House Bill 424, passed by the 1991 Legislature, directed that all appointing authorities of all appointive boards, commissions, committees and councils of state government take positive action to attain gender balance and proportional representation of minority residents to the greatest extent possible.

One directive of HB 424 was that the Secretary of State publish monthly in the *Montana Administrative Register* a list of appointees and upcoming or current vacancies on those boards and councils.

In this issue, appointments made in March, 1992, are published. Vacancies scheduled to appear from May 1, 1992, through July 31, 1992, are also listed, as are current recent vacancies due to resignations or other reasons.

Individuals interested in serving on a new board should refer to the bill that created the board for details about the number of members to be appointed and qualifications necessary.

Each month, the previous month's appointees are printed, and current and upcoming vacancies for the next three months are published.

IMPORTANT

Membership on boards and commissions changes constantly. The following lists are current as of April 6, 1992.

For the most up-to-date information of the status of membership, or for more detailed information on the qualifications and requirements to serve on a board, contact the appointing authority.

BOARD AND COUNCIL APPOINTEES: MARCH, 1992

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Dentistry (Commerce)			
Mr. Jon Frantsvog	Governor	reappointed	3/29/1992
Deer Lodge			3/29/1997
Qualifications (if required): Denturist			
Mr. Jack Traxler	Governor	Fox	3/29/1992
Missoula			3/29/1997
Qualifications (if required): public member			
Board of Investments (Commerce)			
Ms. Eleanor D. Pratt	Governor	Thomas	3/31/1992
Glasgow			1/2/1993
Qualifications (if required): representative of Public Employees Retirement Bd			
Capital Finance Advisory Council (Administration)			
Ms. Karen Barclay-Fagg	Governor	none listed	3/4/1992
Helena			3/4/1994
Qualifications (if required): none specified			
Rep. Francis Bardanouve	Governor	none listed	3/4/1992
Harlem			3/4/1994
Qualifications (if required): none specified			
Mr. Charles A. Brooke	Governor	none listed	3/4/1992
Helena			3/4/1994
Qualifications (if required): none specified			
Sen. Delwyn "Del" Gage	Governor	none listed	3/4/1992
Cut Bank			3/4/1994
Qualifications (if required): none specified			

BOARD AND COUNCIL APPOINTEES: MARCH, 1992

Appointee	Appointed by	Succeeds	Appointment/End Date
Capital Finance Advisory Council (Administration) cont.			
Mr. Dennis Iverson	Governor	none listed	3/4/1992
Helena			3/4/1994
Qualifications (if required): none specified			
Dr. Amos Little	Governor	none listed	3/4/1992
Helena			3/4/1994
Qualifications (if required): none specified			
Mr. Bob Marks	Governor	none listed	3/4/1992
Helena			3/4/1994
Qualifications (if required): none specified			
Mr. Tom Mather	Governor	none listed	3/4/1992
Great Falls			3/4/1994
Qualifications (if required): none specified			
Mr. William L. Mathers	Governor	none listed	3/4/1992
Miles City			3/4/1994
Qualifications (if required): none specified			
Mr. John Rothwell	Governor	none listed	3/4/1992
Helena			3/4/1994
Qualifications (if required): none specified			
Mr. Everett Shortland	Governor	none listed	3/4/1992
Helena			3/4/1994
Qualifications (if required): none specified			
Mr. Warren Vaughn	Governor	none listed	3/4/1992
Billings			3/4/1994
Qualifications (if required): none specified			

BOARD AND COUNCIL APPOINTEES: MARCH, 1992

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Capital Finance Advisory Council (Administration) cont.			
Mr. Steve Yeakel	Governor	none listed	3/4/1992
Helena			3/4/1994
Qualifications (if required):	none specified		
Low-Income Energy Programs Advisory Council (Social and Rehabilitation Services)			
Ms. Olga F. Erickson	Director	none listed	3/1/1992
Fort Benton			3/1/1994
Qualifications (if required):	none specified		
Ms. Kathleen M. Fleury	Director	none listed	3/1/1992
Helena			3/1/1994
Qualifications (if required):	none specified		
Mr. Van C. Jamison	Director	none listed	3/1/1992
Helena			3/1/1994
Qualifications (if required):	none specified		
Mr. Dale Mahugh	Director	none listed	3/1/1992
Butte			3/1/1994
Qualifications (if required):	none specified		
Mr. Jim Morton	Director	none listed	3/1/1992
Missoula			3/1/1994
Qualifications (if required):	none specified		
Mr. James Nolan	Director	none listed	3/1/1992
Helena			3/1/1994
Qualifications (if required):	none specified		
Ms. Myrna Omholt-Mason	Director	none listed	3/1/1992
Helena			3/1/1994
Qualifications (if required):	none specified		

BOARD AND COUNCIL APPOINTEES: MARCH, 1992

Appointee	Appointed by	Succeeds	Appointment/End Date
Low-Income Energy Programs Advisory Council	(Social and Rehabilitation Services)	cont.	
Ms. Kate Whitney	Director	none listed	3/1/1992
Helena			3/1/1994
Qualifications (if required):	none specified		

VACANCIES ON BOARDS AND COUNCILS -- May 1, 1992 through July 31, 1992

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Aging Advisory Council (Governor) Father Carl Erickson, Fort Benton Qualifications (if required): none specified	Governor	7/18/1992
Mr. Ray Fisher, Phillipsburg Qualifications (if required): none specified	Governor	7/18/1992
Mr. R.H. (Buff) Hultman, Drummond Qualifications (if required): representative of Region V	Governor	7/18/1992
Ms. Ena Simpson, Polson Qualifications (if required): none specified	Governor	7/18/1992
Agricultural Development Board (Agriculture) Mr. Charles A. Brooke, Helena Qualifications (if required): Director of Department of Commerce	Governor	7/1/1992
Mr. Larry Johnson, Kremlin Qualifications (if required): actively engaged in agriculture	Governor	7/1/1992
Mr. John C. Witte, Poplar Qualifications (if required):	Governor	7/1/1992
Alfalfa Leaf Cutting Bee Advisory Council (Agriculture) Dr. Gary Jensen, Bozeman Qualifications (if required): member from Montana State University Extension Service	Governor	7/1/1992
Mr. Everett Shortland, Helena Qualifications (if required): member from Department of Agriculture	Governor	7/1/1992
Mr. Tim Wetstein, Joliet Qualifications (if required): member of alfalfa seed growers	Governor	7/1/1992

VACANCIES ON BOARDS AND COUNCILS -- May 1, 1992 through July 31, 1992

Board/current position holder	Appointed by	Term end
Alfalfa Leaf Cutting Bee Advisory Council (Agriculture) cont. Mr. Allen Whitmer, Bloomfield Qualifications (if required): member of alfalfa seed growers	Governor	7/1/1992
Board of Architects (Commerce) Ms. Shirley R. Pappin, Great Falls Qualifications (if required): public member	Governor	7/1/1992
Board of Banking (Commerce) Mr. Lynn D. Grobel, Glasgow Qualifications (if required): officer of national bank	Governor	7/1/1992
Mr. Dayton B. Kolstad, Gt. Falls Qualifications (if required): public member	Governor	7/1/1992
Board of Barbers (Commerce) Ms. Donna Elaine Buska, Billings Qualifications (if required): not specified	Governor	7/1/1992
Board of Cosmetologists (Commerce) Ms. Mary L. Brown, Helena Qualifications (if required): licensed cosmetologist	Governor	7/1/1992
Board of Hearing Aid Dispensers (Commerce) Ms. Patricia Ingalls, Butte Qualifications (if required): not specified	Governor	7/1/1992
Board of Morticians (Commerce) Mr. L. M. Clayton III, Wolf Point Qualifications (if required): not specified	Governor	7/1/1992
Mr. Jack H. Severns, Great Falls Qualifications (if required): public member	Governor	7/1/1992

VACANCIES ON BOARDS AND COUNCILS -- May 1, 1992 through July 31, 1992

<u>Board/Current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Nursing (Commerce) Ms. Doris Lorraine Evans, Havre Qualifications (if required): licensed practical nurse	Governor	7/1/1992
Dr. Kathleen Long, Bozeman Qualifications (if required): registered professional nurse with 5 yr teaching experience	Governor	7/1/1992
Board of Nursing Home Administrators (Commerce) Ms. Linda M. Smith, Missoula Qualifications (if required): none specified	Governor	5/28/1992
Board of Pharmacy (Commerce) Mr. R. G. Glatz, Winnett Qualifications (if required): public member	Governor	7/1/1992
Board of Physical Therapy Examiners (Commerce) Mr. Thomas K. Meagher, Butte Qualifications (if required): practicing physical therapist	Governor	7/1/1992
Board of Plumbers (Commerce) Mr. Thor A. Jackola, Kalispell Qualifications (if required): professional engineer qualified in mechanical engineering	Governor	5/4/1992
Board of Public Accountants (Commerce) Ms. Elizabeth Halliwell, Helena Qualifications (if required): public member	Governor	7/1/1992
Board of Radiologic Technologists (Commerce) Dr. Michael Richards, Great Falls Qualifications (if required): doctor of radiology	Governor	7/1/1992
Mr. Jim Winter, Great Falls Qualifications (if required): licensed radiologic technologist	Governor	7/1/1992

VACANCIES ON BOARDS AND COUNCILS -- May 1, 1992 through July 31, 1992

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Real Estate Appraisers (Commerce) Ms. Connie G. Clarke, Miles City Qualifications (if required): public member	Governor	5/1/1992
Ms. Janet M. Davis, Billings Qualifications (if required): appraiser represent American Institute Real Estate Appraiser	Governor	5/1/1992
Board of Realty Regulation (Commerce) Ms. Marcia J. Allen, Helena Qualifications (if required): licensed real estate broker active in real estate business	Governor	5/9/1992
Board of Regents of Higher Education (Education) Ms. Katherine Sue Rebish, Missoula Qualifications (if required): full time student at unit of higher education	Governor	7/1/1992
Board of Sanitarians (Commerce) Mr. Samuel R. Kalafat, Black Eagle Qualifications (if required): not specified	Governor	7/1/1992
Board of Trustees of the State Historical Society (Education) Mr. Harold L. Poulsen, Great Falls Qualifications (if required): none specified	Governor	7/1/1992
Dr. Richard Roeder, Helena Qualifications (if required): none specified	Governor	7/1/1992
Mr. Ward A. Shanahan, Helena Qualifications (if required): none specified	Governor	7/1/1992
Board of Veterans Affairs (Military Affairs) Mr. Dale G. Pawlowski, Circle Qualifications (if required): none specified	Governor	5/18/1992

VACANCIES ON BOARDS AND COUNCILS -- May 1, 1992 through July 31, 1992

Board/current position holder	Appointed by	Term end
Board of Water Well Contractors (Natural Resources and Conservation)		
Mr. William F. Osborne, Kalispell	Governor	7/1/1992
Qualifications (if required): not specified		
Child Care Advisory Council (Family Services)		
Ms. Nell Baar, Manhattan	Governor	6/30/1992
Qualifications (if required): parent representative		
Ms. Jean Broadhead, Gardiner	Governor	6/30/1992
Qualifications (if required): child care provider		
Ms. Clarice Cryder, Billings	Governor	6/30/1992
Qualifications (if required): parent representative		
Ms. Joann Erickson, Havre	Governor	6/30/1992
Qualifications (if required): parent representative		
Ms. Mildred Wehrman, Shepherd	Governor	6/30/1992
Qualifications (if required): child care provider		
Committee on Telecommunications Services for the Handicapped (Social and Rehabilitation Services)		
Mr. John L. Delano, Helena	Governor	7/1/1992
Qualifications (if required): 1 of 4 handicapped members on board		
Mr. Ben Havidahl, Helena	Governor	7/1/1992
Qualifications (if required): 1 of 4 handicapped members on board		
Mr. Floyd J. McDowell, Great Falls	Governor	7/1/1992
Qualifications (if required): 1 of 2 non-handicapped, 1 not telecommunication business		

VACANCIES ON BOARDS AND COUNCILS -- May 1, 1992 through July 31, 1992

Board/current position holder	Appointed by	Term end
Electrical Board (Commerce) Mr. Edgar Justesen, Glendive Qualifications (if required): none specified	Governor	7/1/1992
Family Support Services Advisory Council (Social and Rehabilitation Services) Mr. Dan Anderson, Helena Qualifications (if required): member	Governor	6/30/1992
Mr. Bud Lee, Miles City Qualifications (if required): parent representative	Governor	6/30/1992
Health Facility Authority Board (Commerce) Mr. Kent Brubaker, Terry Qualifications (if required): none specified	Governor	6/30/1992
Ms. Dalcyce K. Flynn, Townsend Qualifications (if required): none specified	Governor	6/30/1992
Mr. Greg L. Hanson, Missoula Qualifications (if required): attorney licensed to practice law in Montana	Governor	6/30/1992
Montana Mint Committee (Agriculture) Mr. Dale Sonstelie, Kalispell Qualifications (if required): actively involved growing mint	Governor	7/1/1992
Petroleum Tank Release Compensation Board (Health and Environmental Sciences) Mr. Al Audet, Great Falls Qualifications (if required): represents petroleum service industry	Governor	6/30/1992
Mr. John Dove, Missoula Qualifications (if required): represents insurance industry	Governor	6/30/1992

VACANCIES ON BOARDS AND COUNCILS -- May 1, 1992 through July 31, 1992

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Petroleum Tank Release Compensation Board (Health and Environmental Sciences) cont. Mr. Howard Wheatley, Great Falls Qualifications (if required):	Governor	6/30/1992
Special Education Advisory Council (Office of Public Instruction) Mr. Tom Arensmeyer, Townsend Qualifications (if required): regular education	Superintendent of Schools	7/1/1992
Ms. Margery Brown, Missoula Qualifications (if required): legislator	Superintendent of Schools	7/1/1992
Ms. Judith Oberst, Helena Qualifications (if required): parent of child with handicapping condition	Superintendent of Schools	7/1/1992
Ms. Joanne Putnam, Missoula Qualifications (if required): higher education	Superintendent of Schools	7/1/1992
State Library Commission (Education) Ms. Mary Doggett, White Sulphur Springs Qualifications (if required): none specified	Governor	5/22/1992
Teachers Retirement Board (Administration) Mr. James E. Cowan, Seeley Lake Qualifications (if required): public member	Governor	7/1/1992
Tourism Advisory Council (Commerce) Ms. Maureen Averill, Bigfork Qualifications (if required): from Glacier Country	Governor	7/1/1992
Mr. Greg A. Bryan, Whitefish Qualifications (if required): none specified	Governor	7/1/1992

VACANCIES ON BOARDS AND COUNCILS -- May 1, 1992 through July 31, 1992

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Tourism Advisory Council (Commerce) cont. Mr. Alan Elliott, Billings Qualifications (if required): from Custer Country	Governor	7/1/1992
Mr. Kenneth Hickel, Billings Qualifications (if required): representative of Russell Country	Governor	7/1/1992