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MONTANA ADMINISTRATIVE REGISTER

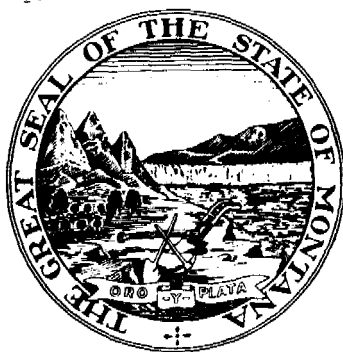
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MONTANA ADMINISTRATIVE REGISTER

ISSUE NO. 24

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 The notice section contains state agencies' proposed new, amended or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted.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

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Administrative Rules Bureau at (406) 444-2055.

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BEFORE THE BOARD OF DENTISTRY
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PUBLIC HEARING ON
amendment of rules pertaining	)	THE PROPOSED AMENDMENT,
to dentist mandatory CPR,	)	REPEAL AND ADOPTION OF RULES
screening panel, dental hygiene)	)	PERTAINING TO THE PRACTICE OF
mandatory CPR, continuing edu-	)	DENTISTRY, DENTAL HYGIENE AND
cation in anesthesia, require-	)	DENTURITRY
ments and restrictions,)	
denturist applications,)	
denturist examination,)	
denturist intern, renewal,)	
requirements and restrictions,)	
inspections-sanitary standards,)	
and screening panel; repeal of)	
rules pertaining to out-of-)	
state applicants; and adoption)	
of new rule pertaining to 90-)	
day guarantee)	

TO: All Interested Persons:

1. On September 24, 1998, the Board of Dentistry published a notice of proposed amendment, repeal and adoption of rules pertaining to the practice of dentistry, dental hygiene and denturistry at page 2541, 1998 Montana Administrative Register, Issue No. 18.

2. The Board received a sufficient number of requests from qualifying individuals for a public hearing on the proposed amendment, repeal and adoption. The Board will hold a hearing on January 11, 1999, at 9:00 a.m., in the small conference room of the Division of Professional and Occupational Licensing, Lower Level, Arcade Building, 111 North Jackson, Helena, Montana, to consider the proposed amendment, repeal and adoption of those rules.

3. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., January 2, 1999, to advise us of the nature of the accommodation that you need. Please contact Sharon McCullough, Board of Dentistry, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-3745; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Sharon McCullough.

4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Dentistry, 111 North Jackson, P.O. Box 200513, Helena, Montana

59620-0513, or by facsimile, number (406) 444-1667, to be received no later than the 5:00 p.m., January 14, 1999.

5. Melody Brown, attorney, has been designated to preside over and conduct this hearing.

6. Persons who wish to be informed of all Board of Dentistry administrative rulemaking proceedings or other administrative proceedings may be placed on a list of interested persons by advising the Board at the hearing or in writing to the Board of Dentistry, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-3745.

BOARD OF DENTISTRY
PAMELA HILL, 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, December 7, 1998.

BEFORE THE BOARD OF SPEECH-LANGUAGE
PATHOLOGISTS AND AUDIOLOGISTS
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF PUBLIC HEARING ON
amendment of rules pertaining	)	THE PROPOSED AMENDMENT OF
to definitions, supervisor	)	ARM 8.62.402 DEFINITIONS,
responsibility, schedule of	)	8.62.501 SUPERVISOR RESPON-
supervision, non-allowable	)	SIBILITY, 8.62.502 SCHEDULE
functions of speech aides, and	)	OF SUPERVISION - CONTENTS,
functions of audiology aides	)	8.62.504 FUNCTIONS OF AIDES,
	)	AND 8.62.703 CONTINUING
	)	EDUCATION REQUIRED - WHEN

TO: All Interested Persons:

1. On January 15, 1999, at 9:00 a.m., a public hearing will be held in the conference room of the DDPAC, Mall Level, Arcade Building, 111 North Last Chance Gulch, Helena, Montana, to consider the proposed amendment of the above-stated rules.
2. The proposed amendments will read as follows: (new matter underlined, deleted matter interlined)

"8.62.402 DEFINITIONS (1) through (5) will remain the same.

(6) Speech-language pathology aides shall be classified as one of the following categories:

(a) aide I shall mean a person who holds an undergraduate degree in communication sciences and disorders, or its equivalent, and is currently enrolled in an accredited graduate program for the purpose of completing licensure requirements. The aide I shall submit verification of the required continuing education units set forth in ARM 8.62.703 to the board annually:

(b) aide II shall mean a person who holds an undergraduate degree in communication sciences and disorders, or its equivalent, but is not currently enrolled in an accredited graduate program. The aide II shall submit verification of the required continuing education units set forth in ARM 8.62.703 to the board annually:

(c) aide III shall mean a person who holds no undergraduate degree in communication sciences and disorders or its equivalent. The aide III shall submit verification of the required continuing education units set forth in ARM 8.62.703 to the board annually.

(7) Audiology aides shall be classified as one of the following categories:

(a) audiology aide shall mean a person meeting the minimum requirements established by the board who performs any of the activities defined under the "practice of audiology" definition of 37-15-102, MCA, under the supervision of a licensed audiologist:

(b) industrial audiology aide shall mean an audiology aide who conducts pure tone air conduction threshold audiograms for the purpose of industrial hearing tests in addition to other acts and services as provided in the statutes and rules."

Auth: Sec. 37-15-202, MCA; IMP, Sec. 37-15-102, 37-15-202, MCA

REASON: This amendment is being proposed to establish three levels of speech-language pathology aides, and two levels of audiology aides to differentiate between persons holding various types of degrees, and those who do not hold a degree. The categories will allow greater guidance in defining and supervising aides, for the protection, safety and welfare of the consumer.

"8.62.501 SUPERVISOR RESPONSIBILITY (1) All persons working in the capacity of a speech-language or audiology aide must be under the direct supervision of a fully licensed speech-language pathologist or audiologist. This supervisor assumes full legal and ethical responsibility for the taxes performed by the aide and for any services or related interactions with a client.

(2) will remain the same.

(3) The speech-language pathology or audiology supervisor and/or appropriate administrative agency is responsible for insuring that the speech-language pathology or audiology aide is initially adequately trained for the tasks he/she will perform. The speech-language pathology or audiology supervisor shall perform a task analysis of the duties of the speech-language pathology or audiology aide and provide a minimum of 40 hours of practical training in the duties the speech-language pathology or audiology aide is expected to perform."

Auth: Sec. 37-15-202, MCA; IMP, Sec. 37-15-102, MCA

REASON: This amendment is being proposed to ensure speech-language pathology supervisors are adequately training the speech-language pathology aides for the tasks they will be performing.

"8.62.502 SCHEDULE OF SUPERVISION - CONTENTS (1) will remain the same.

(2) Aides must be supervised approximately 20% of the client contact time, of which ten percent (10%) must be direct contact. Speech-language pathology aides shall be supervised in accordance with their level of aide classification under the following schedule:

(a) aide I shall be supervised a minimum of 30% while performing diagnostic and interpretive functions in the first year of non-allowable activities. The supervision requirement will be 5% of client contact time, of which 2% shall be direct contact after the first year, at the discretion of the supervising speech-language pathologist;

(b) aide II shall be supervised 10% of client contact time, of which 5% shall be direct contact;

(c) aide III shall be supervised 20% of client contact time, of which 10% shall be direct contact.

(3) Audiology aides shall be supervised in accordance with the following schedule:

(a) audiology aides shall be supervised under a proposed plan to be submitted by the supervisor with the aide application, but which shall include a minimum of 10% of client contact time.

(b) industrial audiology aides shall be supervised under (3)(a) above, but may be authorized to conduct pure tone air conduction threshold audiograms when performing outside the physical presence of a supervisor.

(3) through (5) will remain the same, but will be renumbered (4) through (6)."

Auth: Sec. 37-15-202, MCA; IMP, Sec. 37-15-102, 37-15-202, MCA

REASON: This amendment is being proposed to clarify the amount of supervision required under each of the new speech-language pathology aides, and audiology aides categories.

"8.62.504 NONALLOWABLE FUNCTIONS OF AIDES (1) will remain the same.

(2) Although aides must be under the supervision of a licensee, the aide shall, nevertheless, not do the following activities:

(a) conduct speech/language evaluations, although screening activities allowed by the supervisor are permitted;

(b) interpret data or clinical experience into diagnostic statements of clinical management policies;

(c) transmit clinical information to anyone other than the professional directly supervising him/her;

(d) determine the selection of cases;

(e) refer clients; or

(f) write or plan individual or group therapy/rehabilitation plans.

(2) All speech-language pathology aides shall be under the appropriate supervision for their category of aide. Each aide shall comply with the following function guidelines for the appropriate aide category:

(a) aide I may:

(i) perform tasks identified by the speech-language pathology supervisor in the required task analyses, which do not violate any provision of Title 37, chapter 15, MCA, or these rules;

(ii) conduct speech-language evaluations, and write evaluation reports which have been properly signed off by the supervisor;

(iii) conduct screening activities;

(iv) interpret data or clinical experience into diagnostic statements of clinical management policies with supervisor review;

(v) transmit clinical information to appropriate persons with supervisor approval;

(vi) determine the selection of cases with input from the supervisor;

(vii) write or plan individual or group therapy/rehabilitation plans which have been properly signed off by the supervisor;

(viii) attend and allow to function as part of the child study and individual education planning (IEP) meetings.

(b) aide II may:

(i) perform tasks identified by the speech-language pathology supervisor in the required task analyses, which do not violate any provision of Title 37, chapter 15, MCA, or these rules;

(ii) conduct speech-language evaluations under the supervision of the supervisor, and write evaluation reports which have been properly signed off by the supervisor;

(iii) conduct screening activities as permitted by the supervisor;

(iv) interpret data or clinical experience into diagnostic statements of clinical management policies with the supervisor present, or available, for the purpose of immediate communication and consultation;

(v) determine the selection of cases with direct input from the supervisor;

(vi) write or plan individual or group therapy/rehabilitation plans with supervisor review and sign off;

(vii) attend child study and IEP meetings concerning reports and cases prepared by the aide.

(c) aide III may:

(i) perform tasks identified by the speech-language pathology supervisor in the required task analyses which do not violate any provision of Title 37, chapter 15, MCA, or these rules;

(ii) only conduct screening activities expressly permitted by the supervisor.

(3) Speech-language pathology aides shall comply with the following guidelines on functions which are not allowed for the appropriate aide category:

(a) aide I may not refer clients to outside professionals;

(b) aide II may not:

(i) transmit clinical information to anyone other than the professional directly supervising him/her;

(ii) refer clients to outside professionals.

(c) aide III may not:

(i) conduct speech-language evaluations;

(ii) interpret data or clinical experience into diagnostic statements of clinical management policies;

(iii) transmit clinical information except to the professional directly supervising him/her;

(iv) determine the selection of cases;

(v) write or plan individual or group therapy/rehabilitation plans.

(vi) attend child study or IEP meetings except with the permission of the supervisor;

(vii) refer clients to outside professionals.

~~(3) (4) Speech-language pathologist or audiologist aides I who are currently enrolled in a speech-language pathology/audiology master's program may perform nonallowable functions of aides I, under supervision, only if all of the following conditions have been met:~~

~~(a) and (b) will remain the same.~~

~~(c) a minimum requirement of 10% additional supervision (beyond the 20% required in ARM 8-62-502) while performing diagnostic and interpretive functions in the first year of nonallowable activities. The supervision may return to the 20% requirement of ARM 8-62-502 after the first year, at the discretion of the supervising speech-language pathologist or audiologist;~~

~~(d) will remain the same, but will be renumbered (c).~~

~~(e) (d) annual application for waiver of nonallowable functions of speech-language pathology aides I to the board for approval prior to commencement of performance as a speech-language pathologist or audiologist aide I.~~

(5) Audiology aides and industrial audiology aides shall comply with the supervision plan and functions submitted by the supervisor at the time of application, and with all other statutory or rule requirements."

Auth: Sec. 37-15-202, MCA; IMP, Sec. 37-15-102, MCA

REASON: This amendment is being proposed to clarify the functions which may be performed by each of the new categories of speech-language pathology aides and audiology aides.

"8.62.703 CONTINUING EDUCATION REQUIRED - WHEN

(1) through (5) will remain the same.

(6) Speech-language pathology aides I, II and III shall complete 20 units of continuing education annually, and submit verification of the continuing education to the board at the time of registration.

(7) Audiology aides and audiology industrial aides shall complete six units of continuing education annually and submit verification of the continuing education to the board at the time of registration."

Auth: Sec. 37-15-202, MCA; IMP, Sec. 37-15-102, 37-15-309, MCA

REASON: The amendment is being proposed to set the continuing education unit requirements for the new categories of speech-language pathology aides and audiology aides to ensure updated education in their fields.

3. The Department of Commerce will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., January 5, 1999, to advise us of the nature of the

accommodation that you need. Please contact Helena Lee, Board of Speech-Language Pathologists and Audiologists, 111 N. Jackson, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 444-3091; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-1667. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rule-making process should contact Helena Lee.

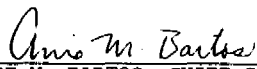
4. Interested persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Speech-Language Pathologists and Audiologists, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513, or by facsimile, number (406) 444-1667, to be received no later than the close of hearing on January 15, 1999.

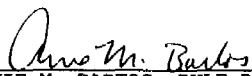
5. Melody Brown, attorney, has been designated to preside over and conduct this hearing.

6. Persons who wish to be informed of all Board of Speech-Language Pathologists and Audiologists administrative rulemaking proceedings or other administrative proceedings may be placed on a list of interested persons by advising the Board at the hearing or in writing to the Board of Speech-Language Pathologists and Audiologists, 111 North Jackson, P.O. Box 200513, Helena, Montana 59620-0513 or by phone at (406) 444-3091.

BOARD OF SPEECH-LANGUAGE
PATHOLOGISTS AND AUDIOLOGISTS
LYNN HARRIS, CHAIRMAN

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, December 7, 1998.

BEFORE THE LOCAL GOVERNMENT ASSISTANCE DIVISION
DEPARTMENT OF COMMERCE
STATE OF MONTANA

In the matter of the proposed	)	NOTICE OF A PUBLIC HEARING
adoption of a rule pertaining	)	ON THE PROPOSED ADOPTION OF
to the administration of the	)	A RULE PERTAINING TO THE
1999 Federal Community	)	ADMINISTRATION OF THE 1999
Development Block Grant	)	FEDERAL COMMUNITY DEVELOPMENT
Program	)	BLOCK GRANT PROGRAM

TO: All Interested Persons:

1. On January 20, 1999, at 1:30 p.m., a public hearing will be held in the downstairs conference room at the Department of Commerce, 1424 Ninth Avenue, Helena, Montana, to consider the proposed adoption of a rule pertaining to the administration of the 1999 Federal Community Development Block Grant Program.

2. The proposed new rule will read as follows:

"I. INCORPORATION BY REFERENCE OF RULES FOR ADMINISTERING THE 1999 CDBG PROGRAM (1) The department of commerce herein adopts and incorporates by this reference the Montana Community Development Block Grant Program 1999 Application Guidelines for Housing & Public Facilities Projects, the Montana Community Development Block Grant Program 1999 Application Guidelines for Economic Development Projects, and the Montana Community Development Block Grant Program 1999 Grant Administration Manual published by it as rules for the administration of the 1999 CDBG program.

(2) The rules incorporated by reference in (1) above, relate to the following:

- (a) the policies governing the program;
- (b) requirements for applicants;
- (c) procedures for evaluating applications;
- (d) procedures for local project start up;
- (e) environmental review of project activities;
- (f) procurement of goods and services;
- (g) financial management;
- (h) protection of civil rights;
- (i) fair labor standards;
- (j) acquisition of property and relocation of persons displaced thereby;
- (k) administrative considerations specific to public facilities, housing rehabilitation and community revitalization and economic development projects;
- (l) project audits;
- (m) public relations;
- (n) project monitoring; and
- (o) technical assistance.

(3) Copies of the regulations adopted by reference in (1) of this rule may be obtained from the Department of Commerce,

Local Government Assistance Division, 1424 Ninth Avenue, Helena, Montana 59620."

Auth: Sec. 90-1-103, MCA; IMP, Sec. 90-1-103, MCA

REASON: It is reasonably necessary to adopt this rule because the federal regulations governing the state's administration of the 1999 CDBG program and section 90-1-103, MCA, require the Department to adopt rules to implement the program. Local government entities must have these application guidelines before the entities may apply to the Department for financial assistance under the CDBG program. The Application Guidelines describe the federal and state requirements with which local governments must comply in order to apply for CDBG funds. The Grant Administration Manual is primarily a restatement and explanation of existing federal and state statutory and regulatory requirements, as well as additional departmental requirements, with which local CDBG recipients must comply in administering their CDBG projects. The manual includes sample forms and letters, checklists, and explanatory text to help local government officials comply with the variety of requirements that apply to economic development, housing, and public facility projects.

3. 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 Local Government Assistance Division or Economic Development Division, Department of Commerce, 1424 Ninth Avenue, Helena, Montana 59620, no later than January 22, 1999.

4. The Division will make reasonable accommodations for persons with disabilities who wish to participate in the public hearing. If you wish to request an accommodation, contact the Department no later than 5:00 p.m., January 10, 1999, to advise us of the nature of the accommodation that you need. Please contact Richard M. Weddle, Local Government Assistance Division, Department of Commerce, 1424 Ninth Avenue, Helena, Montana 59620; telephone (406) 444-2781; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 444-2903. Persons with disabilities who need an alternative accessible format of this document in order to participate in this rulemaking process should contact Richard M. Weddle at the above-stated address.

5. Persons who wish to be informed of all Local Government Assistance Division administrative rulemaking proceedings or other administrative proceedings may be placed on a list of interested persons by advising the Division at the rulemaking hearing or in writing to the Local Government Assistance Division, Department of Commerce, 1424 Ninth Avenue, Helena, Montana 59620.

6. Richard M. Weddle, attorney, has been designated to preside over and conduct this hearing.

LOCAL GOVERNMENT ASSISTANCE DIVISION
DEPARTMENT OF COMMERCE

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, December 7, 1998.

BEFORE THE BOARD OF PARDONS AND PAROLE
DEPARTMENT OF CORRECTIONS
OF THE STATE OF MONTANA

In the matter of the	)	NOTICE OF PROPOSED REPEAL
proposed revision of ARM	)	AND AMENDMENT OF RULES
Title 20, Chapter 25,)	
pertaining to the Board of	)	NO PUBLIC HEARING
Pardons and Parole	)	CONTEMPLATED

TO: ALL INTERESTED PERSONS

1. At its regular meeting on November 30, 1998, in Deer Lodge, Montana, the Board of Pardons and Parole proposed to revise its rules (ARM Title 20, Chapter 25) now published at pages 20-251 through 20-280 of the Administrative Rules of Montana.

2. Since rule-making by the Board is exempted from the notice and comment or opportunity for hearing requirements of the Montana Administrative Procedure Act, this notice is published in the Montana Administrative Register as a courtesy to those persons who may wish to offer comments and suggestions before the Board makes its final decision.


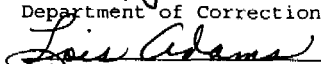
3. The text of the proposed major revision will be mailed to each Clerk of the District Court, UM School of Law, the Montana State Prison law library, Montana Attorney General, and the American Civil Liberties Union. This text will be mailed to any other person who requests a copy by writing to Claudia Johnson, Department of Corrections, 1539 11th Avenue, PO Box 201301, Helena, MT 59620-1301.

4. Many of the changes are proposed merely to arrange the rules more logically or to conform to amendments of the statutes enacted in legislative sessions and more clearly outline the activities of the Board.

5. Comments and suggestions concerning the proposed revision will be considered by the Board of Pardons and Parole if received prior to January 14, 1999, by: Patrick Fleming, Chair, Board of Pardons and Parole, 300 Maryland Avenue, Deer Lodge, Montana 59722.

6. Authority to adopt the proposed changes is based upon 46-23-218, MCA. Imp. 46-23-218, MCA.


PATRICK FLEMING, Chair
Board of Pardons & Parole


RICK DAY, Director
Department of Corrections

Lois Adams, Rule Reviewer
Department of Corrections

Certified to the Secretary of State, December 7, 1998.

24-12/17/98

MAR Notice No. 20-7-19

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

In the matter of the proposed) NOTICE OF PUBLIC HEARING
amendment of ARM 24.16.9007,) ON THE PROPOSED AMENDMENT OF
and the incorporation by) ARM 24.16.9007
reference of federal Davis-)
Bacon wage rates)

TO ALL INTERESTED PERSONS:

1. On January 8, 1999, at 10:00 a.m., a public hearing will be held in room 104 of the Walt Sullivan Building (Department of Labor and Industry Building), 1327 Lockey, Helena, Montana, to consider amending ARM 24.16.9007, regarding incorporation of federal Davis-Bacon rates for heavy and highway construction services.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing. If you request an accommodation, contact the Department by not later than 5:00 p.m., January 4, 1999, to advise us of the nature of the accommodation that you need. Please contact the Research and Analysis Bureau, Job Service Division, Attn: Ms. Kate Kahle, P.O. Box 1728, Helena, MT 59624-1728; telephone (406) 444-3239; TTY (406) 444-0532; fax (406) 444-2638.

3. The Department proposes to amend ARM 24.16.9007 as follows: (deleted material stricken, new material underlined)

24.16.9007. ADOPTION OF STANDARD PREVAILING RATE OF WAGES

(1) The commissioner's determination of minimum wage rates, including fringe benefits for health and welfare, pension contributions and travel allowance, by craft, classification or type of worker, and by character of project, for building construction services and non-construction services are adopted in accordance with the Montana Administrative Procedure Act and rules implementing the Act.

(a) A notice of proposed adoption of the commissioner's determination is published in the Montana Administrative Register approximately 30 to 45 60 days prior to adoption, according to regular publication dates scheduled in ARM 1.2.419.

(b) Adopted wage rates are effective until superseded and replaced by a subsequent adoption.

(c) The wage rates applicable to a particular public works project are those in effect at the time the bid specifications are advertised.

(d) The wage rates proposed and the wage rates adopted are incorporated by reference in respective notices published in the Montana Administrative Register.

(e) The current building construction services rates are contained in the revised 1998 version of "The State of Montana Prevailing Wage Rates-Building Construction" publication.

(f) The current non-construction services rates are contained in the 1997 version of "The State of Montana Prevailing Wage Rates-Service Occupations" publication.

(2) The standard prevailing rate of wages for heavy construction and highway construction services are set at the same rate as those established by the federal government for heavy and highway construction projects in Montana subject to the Davis-Bacon Act.

(a) Pursuant to the provisions of section 8(2), Chapter 522, Laws of 1997, in order to maintain uniformity between pay rates on federal and state or local heavy and highway construction projects, the commissioner may temporarily adopt newly revised federal Davis-Bacon heavy and highway construction rates applicable to Montana without the need for formal rulemaking. In the event the commissioner makes a temporary adoption of revised rates, the commissioner will promptly undertake formal rulemaking to adopt those revised rates by incorporation of those rates by reference. The commissioner will promptly give notice to interested parties of the temporary adoption and the proposed formal adoption of newly revised rates.

(b) Adopted wage rates are effective until superseded and replaced by a subsequent temporary or formal adoption by the commissioner as described in (2)(a).

(c) The wage rates applicable to a particular heavy or highway construction project are those in effect at the time the bid specifications are advertised.

(d) The current heavy construction and highway construction services rates are contained in the October 9, 1998 version of "The State of Montana Prevailing Wage Rates - Heavy and Highway Construction" publication.

(2) and (3) Remain the same, but are renumbered as (3) and (4).

AUTH: 18-2-431 and 2-4-307, MCA

IMP: 18-2-401 through 18-2-432, MCA, and section 8, Chap. 522, L. of 1997

Reason: There is reasonable necessity to amend ARM 24.16.9007 regarding adoption of federal Davis-Bacon rates for Montana in order to implement provisions of Chapter 522, Laws of 1997 (House Bill 407). Pursuant to section 8 of Chap. 522, L. 1997, the Department (via the Commissioner) was granted the power to adopt, on a temporary basis, prevailing wage rates for heavy and highway construction that match federal Davis-Bacon Act rates for Montana. Because the federal government does not go through rulemaking when setting Davis-Bacon Act prevailing wage rates for heavy and highway construction in Montana, the Department is unable to undergo formal rulemaking within the time between when the federal government announces revised rates and the date those revised rates go into effect. The amendments provide a method for formal adoption of the federal rates following a temporary adoption by the Commissioner.

4. 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 to:

Kate Kahle
Research and Analysis Bureau
Job Service Division
Department of Labor and Industry
P.O. Box 1728
Helena, Montana 59624-1728

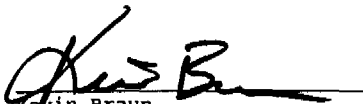
so that they are received by not later than 5:00 p.m., January 15, 1999.

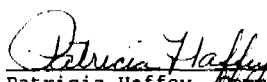
5. The Department maintains a number of mailing lists of interested persons regarding a variety of topics. For more information about the mailing lists, or to have your name and address added to any or all of the interested persons lists, please contact Mark Cadwallader, Office of Legal Services, P.O. Box 1728, Helena, MT 59624-1728; telephone (406) 444-4493; TTY (406) 444-0532.

6. The Department is not required to comply with the provisions of 2-4-302, MCA, regarding notification of the bill sponsor about the proposed action regarding this rule.

7. The Department proposes to make these amendments effective on March 1, 1999; however, the Department reserves the right to make the amendments effective on a later date.

8. The Hearings Bureau of the Centralized Services Division of the Department has been designated to preside over and conduct the hearing.


Kevin Braun,
Rule Reviewer


Patricia Haffey, Commissioner
DEPARTMENT OF LABOR & INDUSTRY

Certified to the Secretary of State: December 7, 1998.

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

In the matter of the	)	NOTICE OF PUBLIC HEARING
amendment of rule 46.20.106,	)	ON PROPOSED AMENDMENT
46.20.117, 46.20.120 and)	
46.20.123 pertaining to the)	
Montana mental health access)	
plan)	

TO: All Interested Persons

1. On January 6, 1999, at 1:30 p.m., a public hearing will be held in the auditorium of the Department of Public Health and Human Services Building, 111 N. Sanders, Helena, Montana to consider the proposed amendment of the above-stated rules.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you request an accommodation, contact the department no later than 5:00 p.m. on December 28, 1998, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970.

2. The rule as proposed to be amended provides as follows. Matter to be added is underlined. Matter to be deleted is interlined.

46.20.106 MENTAL HEALTH ACCESS PLAN. MEMBER ELIGIBILITY

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

(2) Individuals that have not been determined by the department to be eligible for medicaid are eligible for covered services under the plan if:

(2)(a) remains the same.

(b) the family of which the individual is a member has a total family income, without regard to other family resources, at or below ~~200%~~ 150% of the most recently published federal poverty level (FPL).

(3) through (6)(c) remain the same.

~~(7) Eligibility and premium payments~~ determinations for non medicaid individuals are effective for a period of 1 year unless the federal poverty level or the member's income or family composition changes before the expiration of the 1 year eligibility period.

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

~~(c) The premium payment due from any member or member~~

~~family must be adjusted within 5 working days of receipt of documentation of changes in income or family composition that would change the premium payment calculated under ARM 46.20.120.~~

~~(7) (d) remains the same, but is renumbered (c).~~

~~(e) (d) An individual is liable to the MCO and the MCO may collect from the individual the amount of actual MCO payments to providers for any services furnished to the individual, including any premium payments that may be due, because of misrepresentation of income or a failure to give the required notice of changes in income or family composition.~~

~~(8) remains the same.~~

~~(9) In addition to meeting any additional member notification and education requirements under its contract with the department, the MCO must provide all applicants with current, accurate, understandable information regarding covered diagnoses, available services, procedures to access services, financial liability for services obtained outside the plan, the amount of and financial liability for premiums and copayments, and grievance and appeal procedures.~~

~~(10) remains the same.~~

AUTH: Sec. 41-3-1103, 53-2-201, ~~53-6-113~~, 53-6-131,
53-6-701 and 53-6-706, MCA

IMP: Sec. 41-3-1103, 53-2-201, 53-1-601, 53-6-101,
53-6-113, ~~53-6-116~~, 53-6-117, ~~53-6-131~~, 53-6-701,
53-6-705, 53-6-706, 53-21-139 and 53-21-202, MCA

46.20.117 MENTAL HEALTH ACCESS PLAN. PROVIDER REIMBURSEMENT (1) and (2) remain the same.

~~(3) Providers must accept the amounts payable under the provider contract, including any copayments the provider is permitted by the contract to collect from the member and retain, as payment in full for services provided to members. For purposes of this rule, the requirements of ARM 46.12.303 regarding payment in full apply to the provider and for purposes of applying such provisions the term "MCO" shall be substituted for "department".~~

~~(4) through (4) (b) remain the same.~~

AUTH: Sec. 53-2-201 and ~~53-6-113~~, MCA

IMP: Sec. 53-1-601, 53-2-201, ~~53-6-101~~, 53-6-116,
53-6-701 and 53-6-705, MCA

46.20.120 MENTAL HEALTH ACCESS PLAN. MEMBER COPAYMENTS PAYMENTS (1) Copayments may not be charged to and collected from members by providers or the MCO only as provided in this rule.

~~(2) Medicaid-eligible members may not be charged or required to pay copayments for mental health services provided under the plan. This rule does not in any way reduce the liability of a resident of a state institution to pay charges for the cost of care as provided in Title 53, Chapter 1, part 4,~~

MCA and implementing rules.

~~(3) Except as provided in this rule and subject to the limits specified in (4), members who are not medicaid eligible shall pay copayments as follows:~~

~~(a) a copayment of \$10.00 for each outpatient service or session, including but not limited to individual therapy, group therapy, evaluation or assessment, crisis service, prescription, in-home service, and community rehabilitation service;~~

~~(b) a copayment of \$50.00 per day for each day in any 24-hour out-of-home service, including but not limited to inpatient hospitalization, residential treatment, therapeutic group care, and therapeutic family care; and~~

~~(c) a copayment of \$50.00 for each hospital emergency room visit.~~

~~(4) For any calendar month, the total amount of copayments under (3) shall not exceed:~~

~~(a) for any member or member family with a total family income less than or equal to 125% of the federal poverty level, 5% of one-twelfth of the annual total family income;~~

~~(b) for any member or member family with a total family income greater than 125% and less than or equal to 175% of the federal poverty level, 10% of one-twelfth of the annual total family income; and~~

~~(c) for any member or member family with a total family income greater than 175% and less than or equal to 200% of the federal poverty level, 15% of one-twelfth of the annual total family income.~~

~~(5) The MCO may refuse to provide services under the plan, except emergency services or services provided by the Montana state hospital or the Montana mental health nursing care center, to any member who has accumulated unpaid copayments more than 90 days in arrears in excess of an amount equal to 2.5 times the monthly maximum copayment established for the member of family under (4), if:~~

~~(a) the member or the member's family are not making a good faith effort to pay accumulated copayments; and~~

~~(b) the MCO has made good faith efforts to collect the amount owed.~~

~~(6)(2) Residents of the Montana state hospital and the Montana mental health nursing care center, whether or not medicaid eligible, will be are liable to the institution for amounts assessed by the department pursuant to Title 53, chapter 1, part 4, MCA and implementing rules. Residents of the Montana state hospital and the Montana mental health nursing care center will not be responsible in addition to such amounts for the copayments specified in this rule. Copayments due to the MCO with respect to these residents will be settled by the department with the MCO on a periodic basis as provided in the contract between the MCO and the department.~~

~~(7) remains the same but is renumbered (3).~~

AUTH: Sec. 53-2-201, ~~53-6-113~~ and ~~53-6-131~~, MCA

IMP: Sec. 53-1-405, 53-1-601, 53-2-201, 53-6-113
53-6-116 and 53-6-131, MCA

46.20.123 MENTAL HEALTH PLAN. MEMBER NOTICE AND APPEAL RIGHTS (1) remains the same.

(2) Subject to the requirements of this rule, a member has the right to a fair hearing as provided for claimants at ARM 46.2.201, et seq., regarding:

(2)(a) remains the same.

~~(b) a determination of premium, including a refusal by the MCO to provide services under ARM 46.20.120(7) based upon unpaid premiums.~~

(3) through (14) remain the same.

AUTH: Sec. 2-4-201, 53-2-201, 53-6-113 and 53-6-706, MCA

IMP: Sec. 2-4-201, 53-2-201, 53-1-601, 53-6-101,
53-6-113, 53-6-116 and 53-6-706, MCA

3. The principal proposed amendment to ARM 46.20.106 would change the eligibility criteria for participation of non medicaid members in the Montana Mental Health Access Plan (Plan) by reducing the eligibility criteria relating to family income from a maximum of 200% of the most recently published federal poverty level to a maximum of 150%. This change would reduce the number of non medicaid members who could participate in the Plan in a predictable way. The proposed change, however, does not diminish the range or efficacy of treatment options available through the Plan.

The other proposed changes to ARM 46.20.106, 46.20.117, 46.20.120, and 46.20.123 generally remove references to premiums and copayments.

The proposed change to ARM 46.20.106, constricting eligibility, is necessary for maintaining the financial viability of the Plan. The costs of the Plan are currently and have been exceeding the various sources of funding upon which it is predicated. As a result, the continued operation of the Plan is in jeopardy. The collapse of the Plan would end the availability of services to a large number of persons and reduce the number and types of services generally available to persons who otherwise would continue to qualify for mental health services through the traditional state, medicaid and federal programs that may come back into existence upon its collapse.

It has been the goal of the Plan to foster the provision of mental health services for a sizable population of non medicaid persons who are unable to generally afford those services. The proposed constriction of eligibility coverage based on income, however, is necessary to reduce the overall costs of the Plan and thereby assure that the Plan as a whole does not collapse with the much broader impacts that would entail.

The Department is proposing the 150% of federal poverty level criteria based on a review of the projected savings in costs that that particular reduction in numbers would bring about. The projected savings should provide for the immediate and longer term viability of the Plan.

The Department is proposing this option even though it is instituting by rule other measures, particularly the imposition of a premium payment requirement, for realizing the necessary cost savings. Those other approaches appear in notices of proposed and final rule adoption by the Department published in the Montana Administrative Register on the following dates: October 22, 1998 and in this issue dated December 17, 1998.

Comments received on MAR Notice No. 37-109 included ones asserting that the implementation of premiums and any new copayments would be in violation of the recently adopted constitutional initiative, CI-75. When the rule notice was proposed, CI-75 had not been adopted. The options presented in that notice, including adoption of premium payments in lieu generally of copayments, are the preferred options because with their adoption most of the current coverage features in the Plan would be retained. The final notice of adoption for those other options delays the implementation of the new premium payments and the revised copayments payments pending a formal opinion of the Montana Attorney General.

Since the new premium payments and revised copayments, being adopted in the other notice, are options that it may not be possible to implement due to the legal questions being raised, the Department is now proposing the possible implementation of the reduction of eligibility approach as an alternative option to those.

While the approach of changing the eligibility criteria is not preferred over the other options of imposition of premium payments and revised copayment payments, it appears to be a legally sound option for realizing cost savings and it has certain positive aspects. It maintains some of the exceptional coverage in the Plan as it was originally planned and established. The 150% of the federal poverty level is consistent with the eligibility criteria that are being used in other departmental programs such as the Children's Health Insurance Program. It is a singular measure that is readily implemented administratively without any major changes to other procedure or criteria. It avoids the possible loss of those Plan participants who due to their conditions would perhaps fail to undertake the steps necessary under the premium and copayment options to retain eligibility. The constriction of eligibility based on a predefined income criteria results in attrition that is rational and predictable. Those members that would lose coverage under the proposed changes are those members who have

the greatest ability and resources to obtain and pay for treatment privately.

The other proposed changes to ARM 46.20.106, 46.20.117, 46.20.120, and 46.20.123 are necessary to remove the provisions and references to premiums and copayments which are to be superseded by the change in eligibility. As noted above, the determination of the Department to proceed with the implementation of the constriction upon eligibility criteria is predicated upon the possible determination of the Montana Attorney General that the imposition of the premium payment and the copayment payments is legally impermissible. Consequently, if those measures are impermissible then the language implementing them must be removed.

4. Interested persons may submit their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than January 14, 1999. The Department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.

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


Rule Reviewer


Director, Public Health and
Human Services

Certified to the Secretary of State December 7, 1998.

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

In the matter of the)
amendment of rules 46.20.103,)
46.20.114 and 46.20.123)
pertaining to the Montana)
mental health access plan)

NOTICE OF PUBLIC HEARING
ON PROPOSED AMENDMENT

TO: All Interested Persons

1. On January 6, 1999, at 1:30 p.m., a public hearing will be held in the auditorium of the Department of Public Health and Human Services Building, 111 N. Sanders, Helena, Montana to consider the proposed amendment of the above-stated rules.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you request an accommodation, contact the department no later than 5:00 p.m. on December 28, 1998, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970.

2. The rules as proposed to be amended provide as follows. Matter to be added is underlined. Matter to be deleted is interlined.

46.20.103 MENTAL HEALTH ACCESS PLAN. DEFINITIONS

- (1) and (2) remain the same.
(3) "Correctional or detention facility" means:
(3)(a) through (3)(c) remain the same.
~~(d) the Billings transition center;~~
~~(e) the youth evaluation program;~~
(3)(f) through (3)(k) remain the same but are renumbered
(3)(d) through (3)(i).
(4) through (19) remain the same.
AUTH: Sec. 41-3-1103, 52-1-103, 53-2-201,
53-6-113, 53-6-131 and 53-6-701, MCA
IMP: Sec. 41-3-1103, 52-1-103, 53-1-601, 53-6-113,
53-6-101, 53-6-113, 53-6-116, 53-6-117,
53-6-131, 53-6-701, 53-6-705, 53-21-139 and
53-21-202, MCA;

46.20.114 MENTAL HEALTH ACCESS PLAN. COVERED SERVICES

- (1) through (15)(a)(iv) remain the same.

(b) A member incarcerated in a local government criminal detention facility who has not been adjudicated may receive medically necessary mental health services for covered diagnosis during incarceration, except that the plan does not cover the member's security or detention needs.

~~(b)(c)~~ A member may receive medically necessary mental health services for covered diagnoses after leaving the correctional or detention facility, except that the plan will not cover the individual's security or detention needs.

AUTH: Sec. 41-3-1103, 52-1-103, 53-2-201 53-6-113,
53-6-131 and 53-6-706, MCA

IMP: Sec. 41-3-1103, 52-1-103, 53-1-405, 53-1-601,
53-2-201, 53-6-113, 53-6-116, 53-6-701, 53-6-
705, 53-6-706, 53-21-139, 53-21-202, MCA

46.20.123. MENTAL HEALTH PLAN, MEMBER NOTICE AND APPEAL RIGHTS (1) through (6) remain the same.

~~(a) The department may request additional supporting information or documentation from the member, the provider or the MCO for purposes of reviewing and deciding the administrative review panel case.~~

~~(b)(a) The department will convene a panel of 3 members, selected by the department with due consideration of the necessary qualifications for the case at issue, to consider and decide the matter. The panel proceeding is The administrative review will be conducted informally. The panel department considers will consider the written materials submitted and the rationale for the decision provided by the MCO. In its discretion, if the department panel finds that resolution of the issues would be aided, the panel or members of the panel the department may contact persons involved in the case, interested agencies or mental health professionals and may request that the member, the member's representative, a mental health professional, a representative of the MCO, a provider representative or other appropriate persons to appear in person or by telephone conference to discuss the case.~~

~~(b)(b) The department must make a decision on the administrative panel review and notify the member or the member's representative in writing of the decision.~~

(7) The administrative review panel decision is final and binding on the MCO. The MCO is not entitled to an administrative a fair hearing as provided in ARM 46.2.201, et seq., 46.12.409, 46.12.509A, 46.12.1268 or any other department rule to contest an adverse administrative review panel decision.

(8) A member has the right of appeal as provided at ARM 46.2.201, et seq., to contest an adverse administrative review panel decision regarding an action described in (2)(a) through (d) of this rule, but must exhaust the administrative review panel procedure before a fair hearing may be requested from the department under the provisions of ARM 46.2.201, et seq. A member does not have a right of appeal under ARM 46.12.201, et

seq. to contest an adverse ~~panel~~ decision regarding a matter not described in (2) of this rule.

(9) A member that does not timely submit a grievance or appeal or a request for an administrative ~~panel~~ review is deemed to have accepted the agent's determination and is not entitled to any further notice or appeal opportunity.

(10) For purposes of ARM 46.2.202(1)(c), the 90 day appeal period starts on the day the department mails to the member or the member's representative a written notice of the administrative review ~~panel~~ decision.

(11) through (14) remain the same.

AUTH: Sec. 2-4-201, 53-2-201, 53-6-113 and 53-6-706, MCA
IMP: Sec. 2-4-201, 53-1-601, 53-2-201, 53-6-101,
53-6-113, 53-6-116 and 53-6-706, MCA

3. The proposed amendments are to rules that implement the Montana Mental Health Access Plan (Plan). The proposed amendments would make changes to the scope of coverage for services available through the Plan and the appeal process available to various parties under the Plan.

The proposed amendment to ARM 46.20.103, would delete from the definition of the term "correctional or detention facility" the following facilities: the Billings Transition Center and the Youth Evaluation Program. The term "correctional or detention facility" appears in ARM 46.20.114 and is used to define those members who because of criminal status are not generally entitled to services under the Plan. The two specific programs to be deleted from the term, the Billings Transition Center and the Youth Evaluation Program, provide services to youths who are not adjudicated as criminals. The other change, related to eligibility, is to ARM 46.20.114. That change adds a new exception to noncoverage of members of the Plan who are incarcerated. The exception provides coverage for members who though incarcerated have not been adjudicated to be criminals.

The proposed amendments, affecting changes to the appeal process, are to ARM 46.20.123. That rule establishes the appeal process with related notice requirements. The proposed amendments would remove from the appeal process one aspect which is an intermediate formal review by an administratively appointed review panel.

The proposed change in the definition of "correctional or detention facility" would conform the rule with the original concept of coverage under the Plan. That change is necessary in that the Plan was drawn in part based on circumstances of coverage that were in place under the previous medicaid coverage plan. The prior medicaid plan did not allow for coverage of persons who were inmates of a correctional facility. Upon further review, it has been determined that the Youth Evaluation

Program and the Billings Transition Center are not excluded from medicaid coverage as correctional facilities and that persons residing in those facilities should receive medicaid services if otherwise eligible for medicaid. Consequently, these two facilities should not be listed as correctional facilities for purposes of coverage under the Plan.

The deletion of these facilities from that definition is the appropriate option since the facilities are not correctional facilities and the members of the plan residing in those facilities are therefore entitled to coverage. The only other available option, that of not providing coverage, would be legally unacceptable.

The proposed change to ARM 46.20.114, providing coverage of members who are incarcerated in correctional or detention facilities but have not been adjudicated to be criminals, is necessary in order to assure continuity of services to persons who are only temporarily placed into those facilities. Often members who are placed into correctional or detention facilities are not then adjudicated and formally incarcerated. The placement may be protective in nature due to their circumstances or may be for infractions that are not then prosecuted or for which conviction does not occur. Consequently, it is important to maintain services for these persons so that they do not regress in their treatment status.

This option is the desirable option because it provides the opportunity to maintain the members' mental health which may in some cases be exacerbated by the incarceration. These members typically are let out of the facilities and will not be sentenced to incarceration. The other available option, which is to not provide services to members once incarcerated, is not acceptable due to the harm that may occur to some of the members in the absence of services and the regression that may occur for many necessitating more commitment of services and further costs for the Plan upon their release.

The principal proposed amendments to ARM 46.20.123, removing the current formal review by the administratively appointed review panel, are necessary to provide members with a much more timely resolution of appealed matters. During the past 18 months, the department has convened 13 panels. The process for assembling each panel has proven administratively difficult because of the challenges involved in identifying three individuals who are willing and available to function as a panel member. The time involved in case review and preparation can be considerable, and at this time, the department has not provided compensation to panel participants. Some of the proposed amendments provide for the conduct by the department of an informal administrative review involving possible consultation with outside individuals or entities as needed. The administrative review is already an

established procedure in the Department's general fair hearing process that is typically accomplished without delay. Consequently, the proposed amendments relating to the administrative review do not affect a substantive change in the appeals process.

The proposed changes removing review by a formal administrative review panel from the appeal process, are the desirable option in that it provides all the parties involved, particularly Plan members, with a much more timely resolution of appeals. The only other option is to leave review by the administrative review panel in place. That would result in continued delays at this step of the appeal process. At this time, the administrative panel review may take as long as six months before a decision is reached.

4. Interested persons may submit their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than January 14, 1999. The Department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.

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

Dawn Sliva
Rule Reviewer

Wm. Elmer
Director, Public Health and
Human Services

Certified to the Secretary of State December 7, 1998.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE PROPOSED) NOTICE OF PROPOSED AMENDMENT
AMENDMENT of ARM 42.20.454,) AND REPEAL
42.20.455, and 42.21.157; and)
REPEAL of ARM 42.21.304)
relating to Real and Personal)
Property Tax Rules) NO PUBLIC HEARING CONTEMPLATED

TO: All Interested Persons:

1. On February 12, 1999, the Department of Revenue proposes to amend ARM 42.20.454, 42.20.455, and 42.21.157; and repeal ARM 42.21.304 relating to real and personal property tax rules.

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

42.20.454 CONSIDERATION OF SALES PRICE AS AN INDICATION OF MARKET VALUE (1) When considering any objection to the appraisal of property, the department may consider the actual selling price of the property as evidence of the market value of the property. For the actual selling price to be considered, a taxpayer or his/her agent must meet the following requirements:

(a) Must make application on a property adjustment form (AB-26) to the department of revenue, ~~property assessment division~~, appraisal office, located in the county where the property is situated;

(b) In order to be considered, the property adjustment form (AB-26) must be filed within ~~15~~ 30 days after receipt of a valuation notice;

(c) through (i) remain the same.

(2) For the actual selling price to be considered, the department of revenue must:

(a) Analyze and maintain the information and requirements in (1)(a) through (i), as a part of the file supporting the value placed on the property for tax purposes;

(b) Verify the subject sale as a valid arms-length transaction as defined in ~~ARM 42.20.435 and as further defined in 15-8-111(2)(a), MCA~~; and

(c) Verify the comparable sales as valid arms-length transactions as defined in ~~ARM 42.20.435 and as further defined in 15-8-111(2)(a), MCA~~.

(3) and (4) remain the same.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-7-102, 15-7-111, and 15-8-111, MCA

42.20.455 CONSIDERATION OF INDEPENDENT APPRAISALS AS AN INDICATION OF MARKET VALUE (1) When considering any objection to the appraisal of property, the department may consider independent appraisals of the property as evidence of the market value of the property. For an independent appraisal to be

considered, the taxpayer or his/her agent must meet the following requirements:

(a) Must submit a signed original long form narrative appraisal, performed by an appraiser licensed by the state of Montana, or an appraiser who has been certified by a nationally recognized appraisal society or institute, to the department of revenue, ~~property assessment division~~, appraisal office, located in the county where the property is situated;

(b) The appraisal required in (1) (a) must have a valuation date within six months of the base year valuation date or must be adjusted by the county appraiser or the appraiser who performed and prepared the narrative appraisal to reflect changes in market conditions between the appraisal date and the base year valuation date;

(c) Must submit a property adjustment form (AB-26) to the department of revenue, ~~property assessment division~~, appraisal office, located in the county where the property is situated; and

(d) In order to be considered, must file the property adjustment form (AB-26) and the original long form narrative appraisal within 45 30 days after receipt of a valuation notice.

(2) For the independent appraisal to be considered, the department of revenue must:

(a) Maintain the information and requirements in (1) (a) through (d), as a part of the file supporting the value placed on the property for tax purposes;

(b) Conduct on site reviews of the subject property verifying the property characteristics of the subject property;

(c) Verify the comparable sales used in the independent appraisal as valid arms-length transactions as defined in ARM 42.20.435 and as further defined in 15-8-111(2)(a), MCA; and

(d) Conduct on site reviews of the comparable properties being used to support the value of the subject property in the appraisal.

(3) and (4) remain the same.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-7-102, 15-7-111 and 15-8-111, MCA

42.21.157 PREPARATION OF TREND FACTOR SCHEDULES (1) On or before January 1 of every year, the department of revenue shall prepare schedules of trend factors for each of the groups of equipment specified in ~~(2) through (8) of~~ ARM 42.21.156.

(2) The data used to compute the trend factors are the monthly values of the "Producer Price Indexes" (PPI) specified in ~~(2) through (8) of~~ ARM 42.21.156. The values shall be taken from the most recent publications received by the Montana state library as of July 15.

(3) and (4) remain the same.

AUTH: Sec. 15-1-201, MCA

IMP: Sec. 15-6-139, MCA

3. The Department proposes to repeal the following rule:

42.21.304 VEHICLES NEVER LISTED IN THE GUIDES found at page 2161 of the Administrative Rules of Montana.

AUTH: Sec. 15-1-201, 61-3-516, MCA IMP: Sec. 15-8-202, MCA

4. The amendments to ARM 42.20.454(1)(b) and 42.20.455(1)(d) are necessary to correct the number of days a taxpayer has to file the AB-26 form if they disagree with the appraisal as it reflects the market value of the property as determined by the department. Section 15-7-102, MCA, provides the taxpayer 30 days to appeal after receiving the notice of classification and appraisal.

The deletion of the reference to "property assessment division" in both rules is housekeeping. The Department has reorganized its processes and the property assessment division no longer exists. The property assessment and appraisal processes are now handled by the Compliance, Valuation and Resolution Division as reflected in the organizational charts found in ARM 42.1.101.

The amendments to ARM 42.20.454(2)(c) and 42.20.455(2)(a) are necessary because the Department repealed ARM 42.20.435 in 1993; therefore, the reference to that rule is no longer appropriate. The statute, 15-8-111, MCA, clearly defines what is considered an arms-length transaction.

The amendment to ARM 42.21.157 is housekeeping to correct a clerical error which incorrectly references the subsections to ARM 42.21.156. The Department has deleted the reference to the subsections to eliminate any future problems if the rule is further amended and the subsections are changed.

The Department is proposing to repeal ARM 42.21.304 because the 1997 legislature amended 15-8-202 and 61-3-506, MCA. Those amendments transferred rulemaking authority and the responsibility to collect a fee in lieu of a tax on motor vehicles covered in this rule to the Department of Justice. Therefore, the rule is no longer necessary.

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

Cleo Anderson
Department of Revenue
Director's Office
P.O. Box 202701
Helena, Montana 59620

no later than January 15, 1999.


6. If a person who is directly affected by the proposed action wishes to express his data, views and arguments orally or in writing at a public hearing, he must make written request for a hearing and submit this request along with any written comments he has to Cleo Anderson at the above address no later than January 15, 1999.

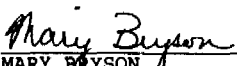
7. If the agency receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action;

from the Administrative Code Committee of the Legislature; from a governmental subdivision, or agency; or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be greater than 25.

8. All parties interested in receiving notification of any change in rules pertaining to this subject should contact the Rule Reviewer in writing at the address shown in section 5 above.

9. The notice requirements of 2-4-302(2)(d), MCA, have been satisfied.


CLEO ANDERSON
Rule Reviewer


MARY BRYSON
Director of Revenue

Certified to Secretary of State December 7, 1998

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

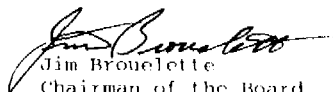
In the matter of the amendment) NOTICE OF AMENDMENT
of rule 2.55.321, pertaining)
to calculation of experience)
rates.)

TO: All Interested Persons:

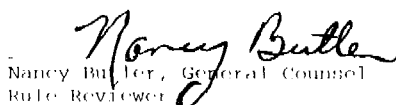
1. On October 8, 1998, the State Compensation Insurance Fund Board published notice of the proposed amendment to Rule 2.55.321 pertaining to Calculation of Experience Rates at page 2643 of the 1998 Montana Administrative Register, issue number 19.
2. The Board has amended the rule as proposed.
3. No comments or testimony were received.



Dal Smilie, Chief Legal Counsel
Rule Reviewer



Jim Brouelette
Chairman of the Board



Nancy Butler, General Counsel
Rule Reviewer

Certified to the Secretary of State December 7, 1998.

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


In the matter of the amendment) NOTICE OF AMENDMENT
of rule 2.55.327, pertaining)
to construction Credit Program,)
rule 2.55.501 definitions, and)
rule 2.55.502 pertaining to)
individual loss sensitive)
dividend plan.)


TO: All Interested Persons:


1. On October 22, 1998, the State Compensation Insurance Fund Board published notice of the proposed amendment to Rule 2.55.327 pertaining to Construction Credit Program, Rule 2.55.501 Definitions, and Rule 2.55.502 Individual Loss Sensitive Dividend Plan at page 2776 of the 1998 Montana Administrative Register, issue number 20.

2. The Board has amended the rules as proposed.

3. No comments or testimony were received.


Dal Smilie, Chief Legal Counsel
Rule Reviewer


Jim Broutelette
Chairman of the Board


Nancy Butler, General Counsel
Rule Reviewer

Certified to the Secretary of State December 7, 1998.

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

In the matter of the	)	NOTICE OF AMENDMENT
amendment of rules 6.6.503,	)	AND ADOPTION
6.6.504, 6.6.507 through)	
6.6.507B, 6.6.509 through)	
6.6.511, 6.6.519 and the)	
adoption of new)	
rule I pertaining to)	
medicare supplement insurance.)	

TO: All Interested Persons:

1. On September 10, 1998, the State Auditor's Office published a notice of public hearing to consider the proposed amendments and adoption of rules pertaining to medicare supplement insurance at page 2325, 1998 Montana Administrative Register, issue number 17. The hearing was held on October 6, 1998, in Helena, Montana.

2. The Department has amended ARM 6.6.503, 6.6.507 through 6.6.507B, 6.6.509 through 6.6.511, and 6.6.519 exactly as proposed.

3. The Department has amended ARM 6.6.504 and adopted new Rule I (ARM 6.6.507C) as proposed, but with the following changes. (new material is underlined; material to be deleted is interlined):

6.6.504. DEFINITIONS For purposes of this subchapter, the terms defined in 33-22-903, MCA, will have the same meaning in this subchapter unless clearly designated otherwise. The following definitions are in addition to those in 33-22-903, MCA.

(1) through (7) will remain the same.

(a) medicare supplemental health insurance as defined under section 1882(g)(1) of the Social Security Act and also medicare select;

(b) through (11) will remain the same.

AUTH: Sec. 33-1-313, MCA
IMP: Sec. 33-22-903, MCA

Rule I (ARM 6.6.507C) GUARANTEED ISSUE FOR ELIGIBLE PERSONS (1) through (2) will remain the same.

(a) The individual is enrolled under an employee welfare benefit plan that:

(i) provides health benefits that supplement the benefits under medicare, and the plan terminates, or the plan ceases to provide all such supplemental health benefits to the individual; or

(ii) is primary to medicare and the plan terminates or the plan ceases to provide all health benefits to the individual because the individual leaves the plan;

(b) The individual is enrolled with a Medicare+Choice organization under a Medicare+Choice plan under Part C of medicare, and ~~the individual disenrolls from a Medicare+Choice plan because any of the following circumstances apply:~~

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

(d) The enrollment ceases under the same circumstance that would permit discontinuance of an individual's election of coverage under the first sentence of section 1851(e)(4) of the federal Social Security Act as delineated above in (2)(b).

(e) through (g) will remain the same.

(h) The individual, upon first becoming eligible enrolled in medicare part B for benefits under Part A of medicare at age 65 or older, enrolls in a Medicare+Choice plan under Part C of medicare, and disenrolls from the plan not later than twelve months after the effective date of enrollment.

(3) through (b) will remain the same.

AUTH: Sec. 33-1-313 and 33-22-904, MCA

IMP: Sec. 33-22-904, MCA

4. The Department has thoroughly considered all comments and testimony received. Those comments, and the Department's responses thereto, are as follows:

Comment 1: One commentator requested the addition of language with regards to medicare select policies in 6.6.504(7)(a).

Response: The Commissioner agrees and has added the medicare select language to (7)(a).

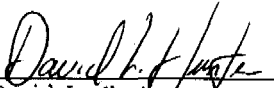
Comment 2: One commentator suggested that Rule I subsection (2)(a) is not clearly written and does not follow the NAIC model regulation.

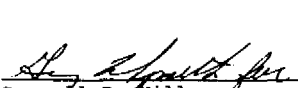
Response: The Commissioner agrees and is amending the proposed language to match the NAIC model regulation.

Comment 3: One commentator suggested amending Rule I subsections (2)(b), (2)(d), and (2)(h) to follow the NAIC model regulation.

Response: The Commissioner agrees and is amending the proposed language to match the NAIC model regulation.

MARK O'KEEFE, State Auditor
and Commissioner of Insurance

By: 
David L. Hunter
Deputy State Auditor

By: 
Russell B. Hill
Rules Reviewer

Certified to the Secretary of State this 7th day of December, 1998.

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

In the matter of the)
amendment of rules) NOTICE OF AMENDMENT,
6.6.3101, 6.6.3103 through) TRANSFER, AND ADOPTION
6.6.3109, 6.6.3112 through) OF RULES
6.6.3115, transfer and)
amendment of rules 6.6.5601)
through 6.6.5604 and)
adoption of new rules I)
through IV pertaining to)
long-term care.

TO: ALL INTERESTED PERSONS

1. On August 27, 1998, the State Auditor's Office published a notice of public hearing to consider the proposed amendment, transfer and amendment of rules 6.6.3101, 6.6.3103 through 6.6.3109, 6.6.3112 through 6.6.3115, 6.6.5601 through 6.6.5604 and adoption of new rules I through IV pertaining to long-term care insurance at page 2193, 1998 Montana Administrative Register, issue number 16. The hearing was held on October 6, 1998, in Helena, Montana.

2. The Department has amended ARM 6.6.3101, 6.6.3104, 6.6.3107, 6.6.3108, 6.6.3109, 6.6.3112, 6.6.3113, and 6.6.3115 exactly as proposed.

3. The Department has amended ARM 6.6.3103, 6.6.3105, 6.6.3106, 6.6.3114 as proposed, but with the following changes (new text is underlined; text to be deleted is interlined):

6.6.3103 POLICY DEFINITIONS (1) will remain the same.
~~(2) "Activities of daily living" means at least bathing, continence, dressing, eating, toileting and transferring.~~
(3) through (19) remain the same but are renumbered (2) through (18).

AUTH: Sec. 33-1-313, MCA
IMP: Sec. 33-22-1101 through 33-22-1121, MCA

6.6.3105. REQUIRED DISCLOSURE PROVISIONS (1) through (7) will remain the same.

(8) A qualified long-term care insurance contract shall include a disclosure statement in the policy and/or certificate and in the outline of coverage that the policy is intended to be a qualified long-term care insurance contract.

AUTH: Sec. 33-1-313, MCA

IMP: Sec. 33-22-1101 through 33-22-1121, MCA

6.6.3106 PROHIBITION AGAINST POST-CLAIMS UNDERWRITING

(1) and (2) will remain the same.

(3) Except for policies or certificates which are guaranteed issue, the following language shall be set out conspicuously and in close conjunction with the applicant's signature block on an application for a long-term care insurance policy or certificate:

Caution: If your answers on this application are incorrect or untrue, [company] has the right to deny benefits or rescind your [policy] or [certificate].

(4) The following language, or language substantially similar to the following, shall be set out conspicuously on the long-term care insurance policy or certificate at the time of delivery:

Caution: The issuance of this long-term care insurance [policy][certificate] is based upon your responses to the questions on your application. A copy of your [application][enrollment form] [is enclosed][was retained by you when you applied]. If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your [policy] or [certificate]. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: [insert address]

(5) through (7) will remain the same.

AUTH: Sec. 33-1-313, MCA

IMP: Sec. 33-22-1101 through 33-22-1121, MCA

6.6.3114 STANDARD FORMAT OUTLINE OF COVERAGE (1) will remain the same.

(2) The outline of coverage shall be a free-standing document, using no smaller than ~~twelve~~ ten point type.

(3) through (6) will remain the same.

AUTH: Sec. 33-1-313, MCA

IMP: Sec. 33-22-1101 through 33-22-1121, MCA

4. Subchapter 56 has been transferred to subchapter 31. The Department has amended and transferred ARM 6.6.5601 to 6.6.3117, 6.6.5602 to 6.6.3118, 6.6.5603 to 6.6.3119, and 6.6.5604 to 6.6.3120 exactly as proposed.

5. The Department has adopted Rule I (ARM 6.6.3104A) and Rule IV (ARM 6.6.3113A) exactly as proposed.

6. The Department has adopted Rule II (ARM 6.6.3109A) and Rule III (ARM 6.6.3109B) as proposed, but with the following changes (new material is underlined; material to be deleted is interlined):

RULE II (6.6.3109A) REPORTING REQUIREMENTS (1) through (5) will remain the same.

(6) Every issuer shall report annually by June 30, for qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of claims denied, other than claims denied for failure to meet the waiting period or because of an applicable preexisting condition.

(6) will remain the same but is renumbered (7).

AUTH: Sec. 33-1-313 and 33-22-1121, MCA
IMP: Sec. 33-22-1113, MCA

RULE III (ARM 6.6.3109B) LICENSING (1) No producer is authorized to market, sell, solicit or otherwise contact a person for the purpose of marketing long-term care insurance unless the producer has demonstrated his or her knowledge of long-term care insurance and the appropriateness of such insurance by passing a the test required by this state and maintaining appropriate licenses.

AUTH: Sec. 33-1-313 and 33-22-1121, MCA
IMP: Sec. 33-17-201, MCA

7. Appendices A through D have been adopted exactly as proposed.

8. The Department has thoroughly considered all comments and testimony received. Those comments, and the Department's responses thereto, are as follows:

Comment 1: One commentator suggested the Insurance Department add the word issuer to its definitions in the Montana Code Annotated because it is used throughout the rules.

Response: The Commissioner agrees and has added the definition into section 33-22-140 of the housekeeping bill to be presented before the 1999 Legislature.

Comment 2: One commentator suggested deleting the definition of 6.6.3103(2) because it is already defined in section 33-22-1107(1), Montana Code Annotated.

Response: The Commissioner agrees that this is redundant and has deleted this definition from the rules.

Comment 3: One commentator requested the addition of language to 6.6.3105 to match language proposed by the NAIC.

Response: The Commissioner agrees and has added the proposed language.

Comment 4: One commentator suggested we add brackets to the words policy and certificate and delete the word "or" in rule 6.6.3106 so that the information would be considered variable and the company could use the applicable term.

Response: The Commissioner agrees and we have deleted the word "or" and included brackets around the words policy and certificate in the rule.

Comment 5: Two commentators suggested deleting subsection (2) from 6.6.3113. They believe this would necessitate the development of an unnecessary number of forms.

Response: The Commissioner has added subsection (2) to 6.6.3113 in order to provide disclosure to consumers. The rule will remain as proposed.

Comment 6: Two commentators suggested changing rule 6.6.3114 back to ten point type from the proposed twelve point type for the forms.

Response: The Commissioner agrees and the language has been amended to ten point type.

Comment 7: One commentator requested that the proposed deletion of subsection (6) in rule 6.6.5602 not be considered, allowing issuers to reject long-term care insurance applications if the information in the Personal Worksheet is not given to the issuer.

Response: The Commissioner believes that the non-disclosure of financial information should not constitute the basis for rejection of the long-term care insurance policy. Only past health information should be used by an insurer to reject a policy application.

Comment 8: One commentator suggested adding the NAIC's proposed language to rule II.

Response: Although this language has not yet been adopted by the NAIC, the Commissioner agrees and has added the proposed language.

Comment 9: Two commentators requested the language of new rule III provide clarification as to whether the Commissioner is creating a new license or exam for an individual to be a long-term care producer.

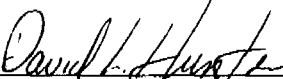
Response: The Commissioner did not intend for the language of new rule III to mean a separate or additional license or test. The language has been changed to clarify this rule.

Comment 10: One commentator suggested adding to new rule IV a time frame in which the Commissioner returns his comments to the company.

Response: The Commissioner disagrees with adding language into new rule IV. This rule is applicable to the time frame in section 33-1-501, et seq., Montana Code Annotated.

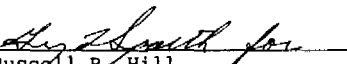
MARK O'KEEFE, State Auditor
and Commissioner of Insurance

By:



David L. Hunter
Deputy State Auditor

By:



Russell B. Hill
Rules Reviewer

Certified to the Secretary of State December 7, 1998.

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

In the matter of the	)	NOTICE OF AMENDMENT
amendment of rule 6.6.5090)	
regarding the rate manual)	
and rate restriction)	
guidelines.)	

TO: All Interested Persons


1. On October 22, 1998, the State Auditor and Commissioner of Insurance of the state of Montana published notice of proposed amendment of rule 6.6.5090 regarding the rate manual and rate restriction guidelines. The notice was published at page 2781 of the 1998 Montana Administrative Register, issue number 20.

2. The agency has amended rule 6.6.5090 exactly as proposed.

3. No comments or testimony were received.

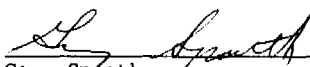
MARK O'KEEFE, State Auditor
and Commissioner of Insurance

By:



David L. Hunter
Deputy State Auditor

By:



Gary Spaeth
Rules Reviewer

Certified to the Secretary of State on December 7, 1998.

BEFORE THE BOARD OF REALTY REGULATION
DEPARTMENT OF COMMERCE
STATE OF MONTANA

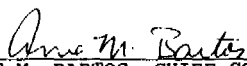
In the matter of the amendment) NOTICE OF AMENDMENT OF
of rules pertaining to grounds) 8.58.419 GROUNDS FOR LICENSE
for license discipline) DISCIPLINE - GENERAL PROVI-
) SIONS - UNPROFESSIONAL
) CONDUCT AND 8.58.714 GROUNDS
) FOR LICENSE DISCIPLINE OF
) PROPERTY MANAGEMENT
) LICENSEES GENERAL PROVISIONS
) - UNPROFESSIONAL CONDUCT

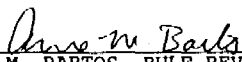
TO: All Interested Persons:

1. On October 22, 1998, the Board of Realty Regulation published a notice of proposed amendment of the above-stated rules at page 2788, 1998 Montana Administrative Register, issue number 20.
2. The Board has amended the rules exactly as proposed.
3. No comments or testimony were received.

BOARD OF REALTY REGULATION
JOHN BEAGLE, CHAIRMAN

BY:


ANNIE M. BARTOS, CHIEF COUNSEL
DEPARTMENT OF COMMERCE


ANNIE M. BARTOS, RULE REVIEWER

Certified to the Secretary of State, December 7, 1998.

BEFORE THE FISH, WILDLIFE AND PARKS COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment)
of rule 12.6.901, limiting)
the use of motor-propelled) NOTICE OF AMENDMENT
water craft on various bodies)
of water within the Thompson)
Chain of Lakes area.)

To: All Interested Persons:

1. On July 30, 1998, the Fish, Wildlife and Parks Commission (commission) published notice at page 1996 in the 1998 Montana Administrative Register, issue number 14, of a public hearing regarding the commission's consideration of a proposed amendment to limit the use of motor propelled water craft on bodies of water within the Thompson Chain of Lakes.

2. On August 28, 1998, a public hearing was held in Libby, Montana. Written comments were accepted through September 1, 1998.

3. After consideration of comments received on the proposed amendment, the commission has amended the rule as proposed.

AUTH: 87-1-303, MCA

IMP: 87-1-303, MCA

4. A total of 253 comments were received on the proposed amendment. Comments in support of the rule totaled 197. Comments expressing opposition to any restriction totaled 56. Eight comments were received in favor of restrictions on some of the lakes but recommending other lakes be removed from the rule proposal. The following is a summary of the comments received along with the commission's responses to those comments.

COMMENT 1: Six individuals were opposed to the rule on the basis that more government regulation is not necessary or desirable. They believed that citizens exercising common sense is preferable to more regulation.

RESPONSE 1: The commission also advocates the use of common sense among all users. However, safety concerns have shown that some users have not used common sense. Therefore, the only way that the commission may bring into compliance those who repeatedly show a lack of concern for the safety of others is to establish regulations that make a particular offense punishable by law.

COMMENT 2: Forty-five individuals supported the rule because of their concern for the safety of lake users.

RESPONSE 2: After serious discussion and observations from

law enforcement personnel in the region, it was determined that there was a need for regulation on the smaller lakes. The commission has authority under 87-1-303(2), MCA to adopt rules governing recreational use of public lakes in the interest of safety and protection of property.

COMMENT 3: Eleven individuals said that the rule was not necessary. They stated that there are no problems on the lakes and the status quo should be maintained pertaining to regulations.

RESPONSE 3: From the department's scoping process and the over 200 public comments that were received, the commission has determined that there is in fact a safety problem, and potential safety problems, with boating on the smaller lakes within the Thompson Chain of Lakes.

COMMENT 4: Thirty-three citizens said they were very concerned with the protection of wildlife in the Thompson Chain of Lakes. They believed the rule would contribute to stopping the decline in nesting loons and protecting other wildlife in the area.

RESPONSE 4: The commission is authorized under 87-1-303(2), MCA to adopt rules governing recreational use of public lakes in the interest of safety and protection of property such as wildlife.

COMMENT 5: Three individuals said that adopting the rule restricting the smaller lakes will cause traffic and crowding problems on the bigger lakes.

RESPONSE 5: The commission is addressing the safety issues of motor propelled water craft on the smaller bodies of water in the Thompson Chain of Lakes. If at another time there are safety issues concerning the larger bodies of water, the commission may address those issues at that time.

COMMENT 6: Twenty individuals wanted the rule to be more restrictive concerning personal watercraft and motorized vessels.

RESPONSE 6: The commission does not wish to restrict individuals using Montana's recreational opportunities any more than is absolutely necessary. To that end, it has chosen to implement the least amount of regulation to gain the desired effect. Placing regulation on personal watercraft alone seemed unfair and might be only a partial solution.

COMMENT 7: Seven individuals stated that they opposed the rule because they believed the adoption of the rule would decrease recreational opportunities.

RESPONSE 7: While the rule may decrease motorized

recreational opportunities on smaller lakes, through the scoping process and the over 200 public comments that were received, the commission has determined that there is in fact a safety problem with boating on the smaller lakes within the Thompson Chain of Lakes. Therefore the commission is acting within its discretion under 87-1-303(2), MCA which authorizes it to adopt rules governing recreational use of public lakes in the interest of safety and protection of property such as wildlife.

COMMENT 8: Thirty-two individuals stated that they supported the rule because it would protect habitat in the area.

RESPONSE 8: The commission under 87-1-303(2), MCA has authority to adopt rules governing recreational use of public lakes in the interest of safety and protection of property such as wildlife.

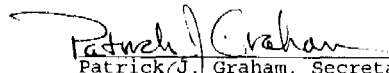
COMMENT 9: Eight individuals thought some of the lakes within Thompson Chain of Lakes should not be included in the rule.

RESPONSE 9: One of the mandates of the commission is to provide regulation on public waters when it is needed for public health and safety. The lakes within the Thompson Chain of Lakes where the no wake rule will apply are so designated based on their size and use. To remove one of them from regulation would be inconsistent.

RULE REVIEWER

FISH, WILDLIFE AND PARKS
COMMISSION


Martha C. Williams


Patrick J. Graham, Secretary

Certified to the Secretary of State on December 7, 1998.

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

In the matter of the) NOTICE OF AMENDMENT
amendment of rules 46.12.3001)
through 46.12.3003,)
46.12.3201, 46.12.3206,)
46.12.3401 through)
46.12.3404, 46.12.3801,)
46.12.3803 through 46.12.3805)
and 46.12.3808 pertaining to)
medicaid eligibility)

TO: All Interested Persons

1. On June 25, 1998, the Department of Public Health and Human Services published notice of the proposed amendment of the above-stated rules at page 1660 of the 1998 Montana Administrative Register, issue number 12.

2. The Department has amended rules 46.12.3001 through 46.12.3003, 46.12.3201, 46.12.3206, 46.12.3402 through 46.12.3404, 46.12.3801, 46.12.3803 through 46.12.3805 and 46.12.3808 as proposed.

3. The Department has amended the following rule as proposed with the following changes from the original proposal. Matter to be added is underlined. Matter to be deleted is interlined.

46.12.3401 GROUPS COVERED. NON-INSTITUTIONALIZED FAIM FINANCIAL ASSISTANCE RELATED FAMILIES AND CHILDREN (1) through (1)(b)(i) remain as proposed.

(c) individuals who have been receiving assistance in the FAIM project and whose assistance is terminated because of earned and/or unearned income or because of the cessation of some limited benefits. These individuals may continue to receive medicaid for up to 12 additional months any or all of the 12 calendar months immediately following the month in which assistance is last received, providing:

~~(i) a member of the household continues to work during the 12 months;~~

(i) in cases where assistance was terminated due to earned income, a member of the assistance unit continues to be employed during the 12 months; however, eligibility may continue even though no member of the assistance unit is employed if there was a good cause as defined in ARM 46.18.136 for the termination or loss of employment. There is no requirement that a member of the assistance unit be employed in cases where assistance was terminated due to unearned income or due to the cessation of limited benefits;

(ii) they received or are deemed to have received cash assistance in the FAIM project for at least 1 month immediately

prior to the month they became ineligible for FAIM assistance; and

(iii) during the second 6 months of the 12-month period, their combined earned and unearned income does not exceed 185% of the federal poverty guidelines; and

(iv) there continues to be an eligible child in the assistance unit.

(1)(d) through (4) remain as proposed.

AUTH: Sec. 53-4-212 and 53-4-113, MCA

IMP: Sec. 53-6-101, 53-6-131, 53-6-134 and
53-4-231, MCA

4. The Department has thoroughly considered all commentary received. The comments received and the department's response to each follow:

COMMENT #1: A written comment was received objecting to deleting ARM 46.12.3001(6)(d)(iii) which requires the Department to assist individuals who cannot remember a Social Security number. The commentor believes by just including this requirement in the program policy manual, assistance will not be offered or provided because a worker will only do so if he/she feels like it.

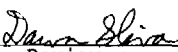
RESPONSE: This change is required because the Department's agreement with the Social Security Administration to provide and assist individuals to make application for a social security number through the local offices of public assistance has been terminated. The Department remains committed to assisting individuals in obtaining an assigned number.

COMMENT #2: One commentor recommends that families who are income eligible should be eligible for transitional Medicaid benefits for 12 months following the loss of FAIM eligibility rather than the 6 months. Families whose breadwinner loses a job may continue to divert from cash assistance during a 12-month period if they remain Medicaid eligible while the breadwinner again looks for work. The possible loss of Medicaid coverage may force the family to return to cash assistance which includes Medicaid coverage.

RESPONSE: In the situation the commentor describes, where the employed family member loses a job during the 12 month period during which a family may receive extended Medicaid, the family will continue to receive Medicaid for the full 12 months, assuming the employed family member was not responsible for the loss of employment. During the first 6 months after FAIM eligibility is lost due to earned income, the family receives extended Medicaid without regard to family income. The family may also continue to receive extended Medicaid for another 6 months if family income does not exceed certain income limits.

In a case where the breadwinner loses a job through no fault of his or her own, for example, if the employed individual is laid off or quits for good cause, the family would presumably pass the income test to continue receiving extended Medicaid for the full 12 months. Further language is being added to the rule to specify this.

The proposed rule will be amended to reflect that a member of the assistance unit is required to continue to be employed, or have lost employment with good cause, only if financial assistance is terminated due to earned income. There is no employment requirement for families who became eligible for extended Medicaid due to a reason other than increased earned income. Other changes are being made to ARM 46.12.3401(1)(c) to clarify that eligibility for extended Medicaid exists only if there continues to be an eligible child in the home and to clarify that extended eligibility is available only during the 12 consecutive months immediately following the month in which assistance was last received; however, an eligible family may receive it in any or all of those 12 months, even if eligibility ends and begins again during the 12 month period. This language change is being made to clarify existing policy only.


Rule Reviewer


Director, Public Health and
Human Services

Certified to the Secretary of State December 7, 1998.

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

In the matter of the adoption	)	NOTICE OF ADOPTION,
of rules I through XV, the	)	AMENDMENT AND REPEAL
amendment of 46.18.101 through)	
46.18.103, 46.18.106 through)	
46.18.108, 46.18.112 through)	
46.18.114, 46.18.118 through)	
46.18.122, 46.18.124 through)	
46.18.126, 46.18.129,)	
46.18.130, 46.18.133, and)	
46.18.134 and the repeal of)	
title 46, chapter 10,)	
subchapters 1 and 2, 46.10.301,)	
46.10.302, 46.10.304A through)	
46.10.306, 46.10.314 through)	
46.10.321, 46.10.324 and title)	
46, chapter 10, subchapters 4,)	
5, 7 and 8 pertaining to)	
Families Achieving Independence)	
in Montana (FAIM))	

TO: All Interested Persons

1. On June 25, 1998, the Department of Public Health and Human Services published notice of the proposed adoption, amendment and repeal of the above-stated rules at page 1592 of the 1998 Montana Administrative Register, issue number 12.

2. The Department has amended rules 46.18.102, 46.18.103, 46.18.107, 46.18.108, 46.18.112, 46.18.113, 46.18.114, 46.18.118, 46.18.119, 46.18.121, 46.18.122, 46.18.124, 46.18.125, 46.18.126, 46.18.130 and 46.18.133 and repealed rules 46.10.101 through 46.10.110, 46.10.201 through 46.10.208, 46.10.210, 46.10.301, 46.10.302, 46.10.304A, 46.10.305, 46.10.306, 46.10.314 through 46.10.321, 46.10.324, 46.10.401, 46.10.402, 46.10.403, 46.10.405, 46.10.406, 46.10.411, 46.10.505, 46.10.506, 46.10.508, 46.10.510 through 46.10.514, 46.10.701, 46.10.702, 46.10.704, 46.10.705, 46.10.707, 46.10.708, 46.10.710, 46.10.711, 46.10.714, 46.10.801, 46.10.803, 46.10.805, 46.10.807 through 46.10.811, 46.10.813, 46.10.815, 46.10.817, 46.10.819, 46.10.823, 46.10.825, 46.10.827, 46.10.829, 46.10.831, 46.10.833, 46.10.835, 46.10.837, 46.10.839, 46.10.841, 46.10.843 and 46.10.847 as proposed. ARM 46.10.821 was proposed for repeal, however, it had previously been repealed.

3. The Department has adopted rules II (46.18.140), V (46.18.146), VI (46.18.141), VII (46.18.143), VIII (46.18.144), IX (46.18.145), XI (46.18.128), XIV (46.18.142), and XV (46.18.151) as proposed. The Department is not adopting rule X.

4. The Department has amended the following rules as

proposed with the following changes from the original proposal. Matter to be added is underlined. Matter to be deleted is interlined.

46.18.101 FAIM FINANCIAL ASSISTANCE: PURPOSE (1) These rules implement the demonstration project entitled families achieving independence in Montana (FAIM) authorized under section 1115 of the Social Security Act, 42 USC 1315. The purpose of this project is to provide temporary assistance to needy families and to assist families in obtaining employment or finding alternatives to public assistance where employment is precluded by disability or other causes.

(2) remains as proposed.

AUTH: Sec. 53-4-212, MCA

IMP: Sec. 53-4-211 and 53-4-601, MCA

46.18.106 FAIM: FINANCIAL ASSISTANCE, INTENTIONAL PROGRAM VIOLATION AND DISQUALIFICATION HEARINGS (1) An intentional program violation (IPV) is a willful action ~~for the purpose of establishing or maintaining eligibility for assistance or for the purpose of increasing the amount of benefits or preventing a reduction of benefits.~~ An IPV may which consists of:

(1) (a) through (4) remain as proposed.

(a) The notice must contain:

(4) (a) (i) through (4) (a) (iv) remain as proposed.

(v) a statement that the individual or representative will, upon receipt of the notice, have 5 days from the date of the scheduled hearing to present good cause for failure to appear in order to receive a new hearing a statement that an individual who has received notice of the hearing but did not appear at the hearing shall have 10 days from the date of the hearing to present good cause for the failure to appear in order to receive a new hearing;

(4) (a) (vi) through (14) remain as proposed.

AUTH: Sec. 53-4-212, MCA

IMP: Sec. 53-4-211 and 53-4-601, MCA

46.18.120 FAIM FINANCIAL ASSISTANCE: INCOME DISREGARDS AND INCOME DEEMING (1) through (3) remain as proposed.

(4) Subject to the disregards in (5) (a) through (d), income of the following individuals must be deemed when determining eligibility:

(4) (a) remains as proposed.

(b) For a pregnant woman who has no other eligible child in the home, in the last trimester of her pregnancy, the income of her spouse or of the father of her unborn child if the father resides with her; and

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

AUTH: Sec. 53-4-212, MCA
IMP: Sec. 53-4-211 and 53-4-601, MCA

46.18.129 FAIM FINANCIAL ASSISTANCE: RESTRICTIONS ON ASSISTANCE PAYMENTS (1) Pathways, and community services program monthly benefit payments and one time employment-related payments are made directly to eligible persons for their own use except in cases of protective payees. The check may not be mailed to the grantee in care of a creditor delivered through indirect representation. Payments may not be forwarded from one address to another.

(2) Job supplement program payments and other cash assistance payments, including but not limited to employment and training supportive services payments, and one-time employment related payments, are made directly to the participant, protective payee or vendor.

(3) and (4) remain as proposed.

AUTH: Sec. 53-4-212, MCA
IMP: Sec. 53-4-211 and 53-4-601, MCA

46.18.134 FAIM FINANCIAL ASSISTANCE: SANCTIONS (1) through (6) remain as proposed.

(7) When a sanctioned individual requests a hearing to challenge the sanction and receives continued benefits pending the hearing, the sanction will not be imposed until a final decision is issued by the hearing officer or the board of public assistance appeals. When a final decision upholding the sanction has been issued, the sanction will then be imposed in the usual manner in a later month or months. Assistance received for the sanctioned individual's needs pending the fair hearing decision will not be considered an overpayment.

AUTH: Sec. 53-4-212, MCA
IMP: Sec. 53-4-211, 53-4-601, 53-4-608, MCA.

5. The Department has adopted the following rules as proposed with the following changes from the original proposal. Matter to be added is underlined. Matter to be deleted is interlined.

[RULE 1] (46.18.109) FAIM FINANCIAL ASSISTANCE: GENERAL ELIGIBILITY REQUIREMENTS (1) through (1)(e) remain as proposed.

(2) The following are not eligible for FFA:

(2)(a) remains as proposed.

(b) a specified caretaker relative who fails without good cause or refuses to comply with the requirements of ARM 46.18.114 regarding the assignment of child and medical support rights and cooperation in establishing paternity and obtaining child and medical support;

(2)(c) through (2)(g) remain as proposed.

(h) an individual who committed and was convicted after

August 22, 1996, of any offense which is classified as a felony in the jurisdiction where the offense occurred and which has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the federal Controlled Substance Act, 21 USC 802(6) ~~or~~.

(2)(i) remains the same.

AUTH: Sec. 53-2-201 and 53-4-212, MCA

IMP: Sec. 53-2-201, 53-4-211 and 53-4-231, MCA

[RULE III] (46.18.105) FAIM FINANCIAL ASSISTANCE: UNDERPAYMENTS AND OVERPAYMENTS (1) through (4)(c)(ii) remain as proposed.

(5) When an assistance unit has been underpaid due to an error by the department or the participant or due to any other reason, the underpayment ~~may~~ shall be corrected by issuing a supplemental payment in the amount by which the assistance unit was underpaid.

(5)(a) remains as proposed.

AUTH: Sec. 53-2-201 and 53-4-212, MCA

IMP: Sec. 53-2-108, 53-2-201 and 53-4-211, MCA

[RULE IV] (46.18.136) FAIM FINANCIAL ASSISTANCE: GOOD CAUSE (1) through (3) remain as proposed.

(4) Good cause for failure to keep appointments, report changes, provide required information, or comply with family investment agreement activities or other eligibility requirements includes, but is not limited to, the following circumstances:

(4)(a) through (4)(d) remain as proposed.

(e) inability to obtain ~~or pay for~~ necessary child care;

(4)(f) through (4)(i) remain as proposed.

(5) Good cause for failure to accept employment or for voluntarily quitting a job or reducing earned income from employment includes, but is not limited to, the following circumstances:

(5)(a) through (5)(b)(i) remain as proposed.

(c) ~~Child care is necessary and is not available. Participant is unable to obtain or pay for necessary child care.~~

(5)(d) through (5)(g) remain the same as proposed.

AUTH: Sec. 53-2-201 and 53-4-212, MCA
IMP: Sec. 53-2-201 and 53-4-211, MCA

[RULE XII] (46.18.149) EMERGENCY ASSISTANCE FOR NEEDY FAMILIES WITH DEPENDENT CHILDREN (1) through (5) remain as proposed.

(6) Emergency assistance shall not be provided to pay for the following:

(6) (a) through (6) (g) remain as proposed.

(h) bills more than 30 days past due, excepting the two most recent months of past due rent or utility bills if a written eviction notice or utility cut-off notice has been given to the household and the cause of the eviction or utility shut-off was an unforeseen event;

(6) (i) through (9) (b) remain as proposed.

AUTH: Sec. 53-2-201 and 53-4-212, MCA
IMP: Sec. 53-2-201 and 53-4-211, MCA

[RULE XIII] (46.18.150) EMERGENCY ASSISTANCE FOR NEEDY FAMILIES WITH DEPENDENT CHILDREN. PROCEDURES FOLLOWED IN DETERMINING ELIGIBILITY (1) and (2) remain as proposed.

(3) To receive emergency assistance, an applicant must show:

(3) (a) remains as proposed.

(b) that all requirements set forth in ~~[Rule XIV]~~ ARM 46.18.149 have been met.

(4) through (8) remain as proposed.

AUTH: Sec. 53-2-201 and 53-4-212, MCA
IMP: Sec. 53-2-201 and 53-4-211, MCA

3. COMMENT #1: ARM 46.18.101 currently states that the purpose of the FAIM program is to assist families in becoming self sufficient. The Department has proposed to amend ARM 46.18.101 to state that the goal is to assist families in obtaining employment rather than becoming self sufficient and to substitute the term "self supporting" for "self sufficient" throughout the FAIM rules. A large number of comments were received stating that the Department should keep the goal of self sufficiency, which was seen as seeking long-term solutions to poverty and the need for public assistance. These commentors believe that changing the goal of the program to helping participants obtain employment rather than achieve self sufficiency will have undesirable results because participants will be forced into low-wage jobs which will not be adequate to support their families.

One commentor also noted that when participants are forced to

accept any available job, they may end up in a job which is not suited to their abilities and interests and which will not provide enough income to support their families. This commentor urged the Department to provide training, to encourage participants to seek higher paying jobs, and to allow participants to give input as to what type of employment they desire.

Additionally, one commentor objected to the change in terminology because some FAIM participants may not have the capacity for employment which will enable them to support their families, although they do not meet the requirements to qualify for federal disability benefits. The commentor notes that the federal government has provided for the existence of a certain percentage of the FAIM caseload who may never be able to support their families independently and remarks that the Department should include long-term care for these families in the stated purpose of the FAIM program.

RESPONSE: The Department has chosen to replace the term "self sufficient" with "obtain employment" and "self supporting" because there is no common, agreed-upon definition of self sufficiency and this makes it difficult to establish measurable goals and to comply with the mandates set by Public Law 104-193 (the Personal Responsibility and Work Opportunity Reconciliation Act). However, we believe the change in terminology does not change the focus of the FAIM cash assistance program which is to provide temporary cash assistance and to offer an array of services to help families transition from the welfare system within a limited period of time. These services are provided by many existing state and local community resources. The Department or its contractors offer employment and training opportunities (such as resume writing, job search skills training, and supported employment), and family strengthening activities which focus on coping with the family's immediate needs (e.g., shelter, clothing, medical, child care) and preparing the family for the parent's absence from the home for employment or job training. Employment plans (Family Investment Agreements) are developed with and mutually agreed upon by the participant after taking into consideration skills, interests and immediate needs.

For those individuals who may not have the capacity for employment, we help find alternatives such as benefits provided by the Social Security Administration. We have added language to ARM 46.18.101(1) to reflect that the purpose of the FAIM program includes helping families find alternatives to public assistance if employment is precluded for some reason such as disability. Additionally, we encourage family-strengthening activities. We believe every individual has something he or she can contribute to the community, and we work with participants to find what those contributions may be.

We agree entry level jobs may not provide the income necessary to totally support the family. However, such jobs do provide the needed experience and training which lead to the next job and eventually a career. Furthermore, with FAIM's more generous earned income disregards and with the additional supports (such as Food Stamps, Medicaid and child care assistance) which low income families may receive, families are economically better off working even at low wage jobs than they would be relying solely on public assistance benefits.

COMMENT #2: In ARM 46.18.103(19), the definition of FAIM employment and training activities states that such activities are required of all FAIM participants. Comments were received expressing the opinion such activities are an exercise in futility for participants who do not have the capacity for employment which will enable them to independently support their families, even though they do not meet the requirements to qualify for federal disability benefits. The Department should specify that employment and training activities will not be required of individuals for whom they will be futile.

RESPONSE: As a temporary cash assistance program, FAIM is designed to promote individual responsibility and help families transition from the welfare system but limits the time over which assistance is available. The Department is obligated to assist families with the employment, training, and educational opportunities necessary to leave the welfare system. Public Law 104-193 clearly requires states to help, to the greatest extent possible, all individuals become and remain employed in whatever employment they are capable of handling as quickly as possible. Public Law 104-193 does not provide for exclusions from this requirement. We believe that the obligation of the State to care for its citizens carries with it a concurrent obligation for individuals to care for themselves and their families. We believe everyone, regardless of their limitations, is worthy of our effort even if they can never be totally independent from public assistance.

COMMENT #3: One commentor criticized the policy of the Department's Child Support Enforcement Division (CSED) of charging custodial parents a fee to collect child support from the noncustodial parent. The commentor stated it is unfair to take money from the innocent party.

RESPONSE: The FAIM rules govern eligibility requirements for receipt of public assistance in the FAIM program. Although ARM 46.18.114 does require participants to cooperate with CSED as a condition of eligibility, the FAIM rules do not address child support enforcement fees, which are addressed in the child support rules in ARM 46.30.101 through 46.30.1607. CSED does not charge a fee to collect child support for families which are receiving FAIM cash assistance benefits.

COMMENT #4: Several comments were received indicating the proposed Rule XIV (46.18.143), which denies FAIM Financial Assistance benefits to families in which the caretaker relative is participating in a strike, should be changed. Workers have the legal right to strike and should not be penalized for exercising that right.

RESPONSE: This rule follows federal regulation at 45 CFR 233.106 under Title IV-A of the Social Security Act which was included by reference into the State's TANF Plan. It is also consistent with the Food Stamp Program regulation at 7 CFR 273.1(g). This regulation and subsequent administrative rule have been in place for many years prior to the FAIM program's implementation. The Department believes this rule does not infringe upon a worker's right to strike. It merely reinforces the premise that government is not responsible to care for those who choose to exercise this right.

COMMENT #5: Two comments addressed the elimination of the Shared Shelter Income Standard in ARM 46.18.122. One was from a member of the Montana Legislature and stated that the Department's remarks regarding why the Legislature originally mandated the use of shared shelter standards were inaccurate. The commentor indicated that saving general fund dollars was not the primary reason the Legislature required the Department to use shared shelter standards, as the Department had suggested. Nor did the Legislature believe that shared shelter standards should be used because recipients of assistance who had a roommate needed less help to pay shelter costs, as the Department also indicated. The commentator indicated that the Legislature's rationale for using shared shelter standards was based on moral considerations and had to do with the belief that single parents who live with partners of the opposite sex to whom they are not married or others should receive less assistance than single parents who live alone or married parents living with their spouse, because people living together should contribute to the household.

The commentor noted that, since the reasons given by the Department for adopting the standards originally, namely saving money and the fact that certain recipients needed less help to pay shelter expenses, weren't the reasons for using shared shelter standards in the first place, the Department's explanation for discontinuing their use, namely that the savings was insignificant and that the Department had determined that recipients with roommates did not necessarily need less public assistance, lacked validity.

The commentor also took issue with the suggestion that the Legislature's failure to include a provision mandating the use of shared shelter standards in House Bill 2 in 1997 indicated a

change of heart on the part of the Legislature in regard to this issue. The commentor indicated that the Legislature did not specifically require the use of shared shelter standards in 1997 because the Department had already incorporated shared shelter standards in its rules by that time. For these reasons, the commentor opposes elimination of the shared shelter standards unless the Department can offer a better explanation of why this is desirable.

The other comment supported the elimination of this Standard because one's shelter obligation does not necessarily correlate with less need for assistance and the old rule did not result in significant savings of General Fund dollars which was its stated intention.

RESPONSE: The Department unintentionally misstated the Legislature's reasons for mandating the use of shared shelter standards. Nevertheless, after considering the Legislature's reasons for mandating their use, the Department still believes the elimination of the shared shelter standards to be desirable. With the implementation of the FAIM project, many changes were made to federal regulations which had prevented the Department from taking into consideration individuals living with the minor child but not related by blood, marriage, or adoption to that child. In determining eligibility for cash assistance in the FAIM program, the Department counts the income and resources of individuals living in the household who are related by blood, marriage, or adoption to the child and/or the child's parent. We believe that this policy addresses the Legislature's concern that people living together should contribute to the household.

COMMENT #6: One commentor believes that under amended ARM 46.18.112 a poor single mother would be denied cash assistance if her child spent equal amounts of time with her and with the child's father, if their combined income and resources exceeded FAIM's guidelines. The commentor recommends eliminating this proposed rule because low-income parents should not be denied benefits simply because their children live with them only half-time. Like any other parent who is income-eligible for FAIM, these parents need financial assistance in order to maintain a household for their children.

RESPONSE: The FAIM cash assistance program is designed to provide temporary assistance for a minor child and his/her parent(s) because, for whatever reason, the child's parents cannot. The amended rule addresses those instances in which a joint custody arrangement stipulates the minor child lives with each parent an equal amount of time each month; each parent has accepted equal responsibility for caring for the child. Therefore, the child is being cared for by both parents although not in the same physical setting. In the usual two-parent household, if the income and resources exceed the standards,

eligibility is denied as well.

COMMENT #7: Comments were received in regard to ARM 46.18.114 recommending that the state should not deny cash assistance to the entire family when a parent is noncompliant with child support enforcement regulations because this action penalizes the children in the family. It was suggested that instead the state should adopt the option of decreasing the family's cash assistance by 25%. If the state refuses to adopt the 25% reduction option, it should more clearly define the difference in conditions that lead to the outcome specified in subsection (9) of ARM 46.18.114 versus the outcome specified in subsection (10).

RESPONSE: The Department does not deny cash assistance to the entire family due to the caretaker relative's failure to comply with child support enforcement requirements. As specified in subsection (9) of ARM 46.18.114, only the noncompliant caretaker relative's needs are removed from the family's benefits when the caretaker relative fails to comply with a child support enforcement requirement. The child's eligibility continues. However, as provided in subsection (10) of ARM 46.18.114, if the caretaker relative refuses to comply with any child support enforcement requirement, the entire family is denied benefits.

The outcomes specified in subsections (9) and (10) are different because the Department considers that a refusal to cooperate, which is a deliberate or intentional act, should have more serious consequences than a failure to cooperate, which could be due to inadvertence or negligence rather than a willful choice not to cooperate.

COMMENT #8: In regard to ARM 46.18.118, one commentor recommends the Department retain the current wording regarding the value of a countable resource. The state should consider whether a resource is subject to a mortgage, lien or other encumbrance when considering its value to the FAIM applicant, since the applicant does not have access to the resource's total value due to these encumbrances.

RESPONSE: The Department does take into consideration all liens and other encumbrances when determining the countable value of a resource. ARM 46.18.118(2) states that the Department will count the equity value as defined in ARM 46.18.103 of resources available to the household. ARM 46.18.103(17) as amended defines "equity value" as the market value minus the value of any enforceable mortgage, lien, encumbrance, or security interest. Thus, the concerns of the commentor have already been addressed.

COMMENT #9: One commentor recommends in regard to ARM 46.18.119 that the state allow self-employed FAIM participants to deduct

as an allowable business expense the purchases of capital equipment and payments on principal of loans for capital assets and durable goods. By doing so, the self-employed are able to purchase equipment necessary to stay in business and successfully transition from welfare.

RESPONSE: At this time, the Department has incorporated into its TANF State Plan many of the former Aid to Families With Dependent Children (AFDC) Program's federal regulations with the exception of those waived by the FAIM Demonstration Waiver Project. The AFDC regulations do not allow expenses for the purchase of capital equipment and payments on principal of loans for capital assets and durable goods to be deducted from gross receipts in determining countable self-employment income, and that policy is continued in ARM 46.18.119. However, in the near future the Department will be reevaluating many of the AFDC regulations which appear to hinder a family's independence from public assistance. The Department will consider this commentor's recommendation at that time.

COMMENT #10: Comments were received in regard to ARM 46.18.120 recommending the Department make the earned income disregards for the Pathways and the Community Services Programs the same. By lowering the disregards in the Community Services Program (CSP) to \$100 and not allowing the additional 25% deduction, a disincentive to employment is created.

RESPONSE: The reduced disregards in the Community Services Program were part of FAIM's original design and are included in our waiver package. This policy was designed as a disincentive for families to remain in the program any longer than absolutely necessary and to help reduce the "cliff effect" families would otherwise experience when moving from having a household income of cash assistance plus a paycheck to relying solely on a paycheck.

COMMENT #11: One commentor recommended the Department allow the one-time employment-related payment for CSP-eligibles because denying this benefit serves as a disincentive to employment.

RESPONSE: Section 53-4-603, MCA, specifically states the one-time employment-related payment is a benefit of the Job Supplement and Pathways Programs only. The Department therefore has no authority to provide for one-time employment related payments for CSP participants in its administrative rules.

COMMENT #12: Comments on amended ARM 46.18.134 recommend Medicaid coverage should not be denied to a sanctioned individual. Only in cases involving something which is also an eligibility requirement for Medicaid should coverage be denied. Sanctioned individuals should not be denied medical coverage, especially since studies conducted throughout the U.S. show that

sanctioned individuals are far more likely to have serious barriers to employment, including medically-related barriers.

RESPONSE: This policy is based on a federal policy interpretation originally provided when the Job Opportunities and Basic Skills (JOBS) program was created and later reissued to the State when the terms and conditions for the FAIM Project were negotiated. We were directed to disqualify individuals from Medicaid for failure to comply with JOBS activities. Under our waiver, all Family Investment Agreement (FIA) activities are considered "demonstration JOBS" activities and therefore the disqualification applies for any noncompliance with the FIA.

However, disqualified individuals may regain Medicaid coverage, if eligible, prior to the end of the sanction penalty period by coming back into compliance with all FIA requirements. Children do not lose Medicaid if the adult fails to comply.

COMMENT #13: Several comments recommend FAIM benefits should not be denied to convicted drug felons because states are not required to do so. The commentors believe the children should not be punished for drug-related crimes for which their parents have already paid.

RESPONSE: All states which receive federal funding through the TANF Block Grant are required to deny cash assistance to adults who have been convicted of a drug-related felony after August 22, 1996, the date Public Law 104-193 was signed into law. States are allowed to opt out of this provision only by specific reference in a law enacted after the enactment of PRWORA. Therefore the Department cannot by rule authorize convicted drug felons to receive cash assistance. Only the Montana Legislature can do so.

However, these individuals may apply for and, if otherwise eligible, receive Medicaid coverage through the FAIM-related Medicaid Program. Additionally, although the convicted individual is excluded from receiving cash assistance, the individual's children and other adults in the household (if otherwise eligible) may continue to do so.

COMMENT #14: Comments were received regarding the deletion of subsection (2)(a) in ARM 46.18.107 which lists enhanced child support enforcement assistance as a benefit of the Job Supplement Program. These commentors encouraged the Department to keep enhanced Child Support Enforcement assistance available for program participants as well as keep extended child care assistance for participants leaving the programs.

RESPONSE: The child support enforcement requirement remains an eligibility requirement and upon receipt of the referral, the Department's Child Support Enforcement Division (CSED) processes

all cases with equal vigor. The provision in ARM 46.12.107(2)(a) for "enhanced child support enforcement assistance" was misleading, however, because participants in the JSP were not given any special assistance or services not available to nonparticipants. Thus that language is being eliminated to avoid confusion. Excluding the language of enhanced child support enforcement does not in any way negate the efforts made to obtain this income for the child. The CSED will continue its efforts to locate the absent parent, establish a support order, and begin collection.

Because of the block granting of child care assistance, extended child care is no longer governed by the FAIM Demonstration Project. However, the Department's revised child care rules (ARM 37.80.101, et seq.) continue to allow assistance for participants who lose eligibility for the FAIM programs if funding is available. Eligibility for child care assistance may continue if the family meets all child care eligibility requirements, their income does not exceed the Sliding Fee Scale Income limits and they continue to pay their required copayment.

COMMENT #15: Comments were received asking the Department to include the recently signed FAIM Bill of Rights in administrative rule.

RESPONSE: The Bill of Rights lists mutual expectations for courteous and fair treatment. Most of the rights listed are already guaranteed, either through state or federal law (such as making reasonable accommodations for disabilities) or through existing rules (such as the good cause process). Others are behavioral expectations the Department feels are subjective and therefore inappropriate for inclusion in administrative rule.

The Bill of Rights was negotiated in good faith with the understanding it would "not carry the weight of rule or law". (Taken from text on the signed Bill of Rights.) Instead, the rights are stated as "DPHHS's commitment to customer service". (Text from signed Bill of Rights.)

COMMENT #16: Written comments were received which indicated ARM 46.18.330 is confusing. The definition of good cause seems to imply there can be good cause for not participating in various FAIM activities (one of which is signing a Family Investment Agreement), yet elsewhere it seems to say that everyone must sign a FIA. In addition, it is not clear whether there are two separate standards: one where an individual is unable to engage in work or training, and another where an individual is unable to do anything at all that might be put in a FIA. This rule incorporates by reference the standard for not working, but indicates that it is not limited to that standard.

RESPONSE: The allowable reasons for claiming good cause for

failing to comply with any eligibility requirement, as well as complying with the conditions of the individual's Family Investment Agreement (which in some instances, such as the child support enforcement requirement, overlap) are consistent. Signing the agreement is an initial eligibility requirement as is furnishing a social security number, verifying relationship of the minor, child, etc. Once eligible, failing to continue to comply with eligibility requirements (such as cooperating with the CSER or completing the agreed-upon Family Investment Agreement activities) without good cause results in the penalty being assessed.

COMMENT #17: A suggestion was made to include the phrase "without good cause" in subsection (2)(b) of Rule I (46.18.109), which states that a caretaker relative who fails or refuses to cooperate with child support enforcement requirements is not eligible for FAIM Financial Assistance.

RESPONSE: ARM 46.18.114, which is referenced in subsection (2)(b) of Rule I (46.18.139), does provide that a caretaker relative who has good cause for failing or refusing to comply with child support enforcement requirements will not be denied assistance for that reason. Thus the Department agrees with the commentor that Rule I (46.18.139) regarding eligibility requirements should specify that it is only caretaker relatives who fail or refuse to comply without good cause who are ineligible for FAIM Financial Assistance. The phrase "without good cause" has therefore been added to subsection (2)(b).

COMMENT #18: In regard to Rule III (46.18.105) which relates to overpayments of public assistance, if any individual challenges the imposition of a sanction, receives continued benefits pending the hearing, and loses the hearing, will some of the continued benefits (equal to the number of months of sanction eventually determined to be proper) constitute an overpayment, or will the sanction simply be imposed at that time?

Also, regarding Rule III(4)(c)(i) (46.18.105) will you use this option of alternate recoveries of overpayments even if the recipient has made and is keeping a payment arrangement? Will the 10% which you withhold as repayment be considered income to the household?

In subsection (5) of Rule III (46.18.105) regarding the correction of underpayments to recipients of assistance, the word "may" is used. If the Department owes a recipient money, it must be paid to him or her. The word "may" should be changed to "shall". In addition, there should be a time limit for such payment; we suggest one month from the time of its discovery.

You say in your comments that it is "too complicated and time consuming" to take less than 10% per month in recovery. You are

certainly willing to take lots of time and thought to making sure that no one gets anything they might not be entitled to, but you are not willing to provide the same time and energy in favor of recipients? You have set benefit levels at 40.5% of the federal poverty guidelines. You would certainly agree that the benefit levels are not such as to create a large disposable fund of money each month. When the Department makes an error, and the family is blameless, is it still okay to reduce the family's income farther than necessary because it's too much trouble for you to take less each month? Such a position is indefensible.

RESPONSE: When a recipient requests a fair hearing to dispute a sanction and continuation of benefits pending a fair hearing decision is authorized, the imposition of the sanction is suspended until the hearing officer determines whether the sanction is proper. If the hearing decision is favorable to the Department, the disputed sanction is then acted upon and will be applied in the normal manner; that is, the needs of the sanctioned individual will be removed from the grant for the applicable period of time. To avoid any confusion about this, a provision is being added to ARM 46.18.134 specifying that the sanction will be imposed in the usual manner after a hearing decision has determined the sanction is proper. This differs from a case where a hearing was requested to dispute an adverse action other than a sanction. For example, if a hearing is requested to dispute whether income should be counted as available to the household, which would result in a reduction of benefits, and benefits are continued at the higher level while the hearing decision is pending, there will be an overpayment for the months when benefits were continued at the higher level if it is found that the income should have been counted and the grant reduced. In the latter case, the reduction of the grant cannot be postponed to a later month.

If a repayment of overissued or incorrectly issued benefits is required, the individual is permitted to choose from a number of repayment methods: a set monthly payment in an amount acceptable to the Department, 10% of the monthly cash benefit, or payment in full. If the individual does not indicate a preference, the Department proceeds to reduce the monthly benefit by 10%. However, the Department will not reduce monthly benefits to recoup the overpayment if the recipient is making payments in accordance with an arrangement previously made with the Department. The Department often agrees to accept monthly payments from recipients which are considerably less than 10% of the current grant amount because the Department realizes that the loss of 10% of the grant can create a hardship for recipients. Therefore the recipient can avoid the 10% reduction of their grants by agreeing to making monthly payments in a lower amount and making those payments on a regular basis. The

10% which is withhold as repayment is not considered income to the household.

The Department agrees with the comment that the Department should repay any underpayment to a recipient which has occurred. Therefore the word "may" in subsection (5) has been changed to "shall", as suggested. If additional benefits are warranted, the Department issues the supplement as soon as possible, usually in the next benefit month.

COMMENT #19: In regard to Rule VI (46.18.141) concerning residency requirements, a comment was received applauding the Department's decision not to impose a durational residency requirement in this program.

RESPONSE: As previously stated on the Notice of Public Hearing, the Department has not applied a durational residency requirement in the past and does not plan to change its policy now.

COMMENT #20: In subsection (6)(d) of Rule XII (46.18.149), you state you will not provide emergency assistance to pay for mortgage payments. The stated goal of this emergency program is to prevent the destitution of children. In light of this goal, this provision makes no sense. It is often true these days that an older mortgage payment is considerably less than a rental payment would be. Even where it is a similar amount, the child is going to be just as homeless whether the parent(s) rents or is buying.

RESPONSE: The Department does not allow Emergency Assistance funds to make mortgage payments because the family has other resources (such as the lending institution) available to meet this need. Emergency Assistance is available only once in any 12-month period and is accessed for those needs which cannot be provided by other community resources.

COMMENT #21: Your definition of "incapacity" in subsection (29) of ARM 46.18.103 is reasonable so long as "substantially reduced" is interpreted as any layman would, or as it was interpreted under the old AFDC rules. Substantially reduced should include situations where the individual can only work part time, or can only do limited kinds of work which are not available in the area.

RESPONSE: The definition of incapacity contained in ARM 46.18.103(29) as amended is based on the former AFDC program's definition. We believe our interpretation is consistent with the commentor's suggestion.

COMMENT #22: Your definition of "teen parent" in subsection (51) of ARM 46.18.103 should exclude an individual under the age

of 18 who has been legally emancipated by a court of law. Granted, these situations are very rare, but they do exist.

RESPONSE: The Department's definition of "teen parent" follows the definition of that term used in PRWORA. Whether or not the teen parent is emancipated by a court of law is not relevant for purposes of the FAIM program.

COMMENT #23: In ARM 46.18.120(4)(b), you indicated you will count as income to a pregnant woman the income of her spouse "or of the father of her unborn child". You should add the words "if that father resides in the household". Surely you do not mean to try to deem income in all cases, including those where the paternity is not established or where the father is known but not willing to contribute anything until a court orders child support.

RESPONSE: It is the Department's policy to count the income of the unborn child's father only if the father is living with the expectant mother. The suggested clarification has been added to the rule.

COMMENT #24: Several comments indicated the Department should not reduce the family's Food Stamps by 25% during a sanction as provided in subsection (6) of ARM 46.18.134 as amended. The entire family should not be penalized in a manner that increases the likelihood of hunger.

RESPONSE: The Department has adopted this penalty in accordance with provisions contained in Public Law 104-193. Congress in adopting these amendments to the Food Stamp Act expressed its belief that the loss of a portion of the family's food stamp allotment is an appropriate consequence for failure to comply with program requirements.

COMMENT #25: In regard to the amendment of ARM 46.18.106 to increase the penalty for the first intentional program violation from 6 to 12 months, one commentor stated that due to the ever-changing nature of FAIM program requirements, it is possible for program participants to be unaware of or confused about reporting requirements. For this reason, the commentor recommends keeping the penalty for a first violation at 6 months.

RESPONSE: The increased penalty period is a federal mandate contained in PRWORA, so the Department must apply a penalty period of 12 months for the first violation. Additionally, the participant's reporting requirements for all public assistance programs have not changed. We agree that eligibility policy and procedures change frequently but the requirements regarding the reporting of changes have remained constant.

COMMENT #26: A written comment was received that the state should have a Welfare Commissioner similar to Montana's Insurance Commissioner.

RESPONSE: The Department does not believe such a position is needed at this time. The fair hearing process allows review of agency actions by an impartial hearing officer in accordance with due process requirements whenever a participant disagrees with an action taken on his or her case. Upon appeal, the Board of Public Assistance Appeals, which consists of three individuals appointed by the Governor who are not employees of the Department, acts as an independent review board. If still unsatisfied, the participant may take the case to District Court. Additionally, even assuming that it was desirable to have a Welfare Commissioner, the Legislature would have to authorize the creation of this new post.

COMMENT #27: It appears that the definition of intentional program violation (IPV) contained in ARM 46.18.106(1) is not consistent with the definition of IPV contained in the Food Stamp regulations.

RESPONSE: That is true. ARM 46.18.106(1) as proposed to be amended defines an IPV as a willful action such as a false or misleading statement or concealment or withholding of facts or any other action intended to mislead, misrepresent, conceal or withhold facts, "for the purpose of establishing or maintaining eligibility for assistance or for the purpose of increasing the amount of benefits or preventing a reduction of benefits". The definition of IPV in the federal Food Stamp regulations at 7 CFR 273.16(c) is the same except it does not include the provision regarding the purpose of the willful action. In order to maintain consistency between the Food Stamp Program and the other FAIM programs, the Department is deleting the phrase regarding purpose in subsection (1), so that the definition of IPV applied in all FAIM programs will be identical. Additionally, in subsections (4)(a)(v) and (5)(a), the length of time a recipient has to claim good cause for failing to appear at the hearing is being increased from 5 to 10 days for the sake of consistency, because the Food Stamp regulations allow 10 days to claim good cause.

COMMENT #28: Rule IV (ARM 46.18.136) regarding good cause for quitting a job or failing to comply with other FAIM program requirements provides that inability to obtain necessary child care constitutes good cause. The rule should also specify that inability to pay for necessary child care constitutes good cause. A parent with children may not be able to work or participate in required activities if the parent does not get state paid child care and does not have enough income to pay for the child care himself or herself.

RESPONSE: The Department agrees. Subsections (4)(e) and (5)(c) of Rule IV (46.18.136) are being changed to specify that inability to obtain or pay for necessary child care constitutes good cause.

COMMENT #29: Rule XII (46.18.149) provides that emergency assistance may be provided to pay past due utility and rent payments in certain situations. However, the rule also states in subsection (1)(a) that emergency assistance is provided when there is an emergency which arose from an unforeseen event which was beyond the household's control. If a family has does not pay its rent or utility bills, for whatever reason, it is foreseeable that eventually they will be evicted or have their utilities shut off. Therefore, the emergency for which the family seeks emergency assistance would not be unforeseen.

RESPONSE: The Department agrees, and has inserted in subsection (6)(h) of Rule XII (46.18.149) a provision that emergency assistance will be provided to pay past due rent and utility bills only if the circumstances leading to the eviction or shutoff of utilities were unforeseen.

COMMENT #30 Rule X seems to be redundant, as it deals with restrictions on assistance payments, which is also covered by ARM 46.18.129.

RESPONSE: The Department agrees. The Department has incorporated the information on payment restrictions contained in proposed Rule X into ARM 46.18.129 and is not adopting Rule X.


Rule Reviewer


Director, Public Health and
Human Services

Certified to the Secretary of State December 7, 1998.

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

In the matter of the	)	NOTICE OF AMENDMENT AND
amendment of 46.18.305	)	REPEAL
through 46.18.326, except)	
reserved rules, and 46.18.330)	
through 46.18.332 and repeal)	
of title 46, chapter 18,)	
subchapter 2, 46.18.302 and)	
46.18.329 pertaining to the)	
families achieving)	
independence in Montana's)	
(FAIM) work readiness)	
component (WoRC) and other)	
employment and training)	
activities)	

TO: All Interested Persons

1. On June 25, 1998, the Department of Public Health and Human Services published notice of the proposed amendment and repeal of the above-stated rules at page 1676 of the 1998 Montana Administrative Register, issue number 12.

2. The Department has amended rules 46.18.305, 46.18.310, 46.18.315, 46.18.319, 46.18.322, 46.18.323, 46.18.326, 46.18.330, 46.18.331, 46.18.332 and repealed rules 46.18.201, 46.18.202, 46.18.205, 46.18.206, 46.18.209, 46.18.210, 46.18.215, 46.18.216, 46.18.217, 46.18.220, 46.18.221, 46.18.222, 46.18.223, 46.18.226, 46.18.227, 46.18.230, 46.18.231, 46.18.237, 46.18.238, 46.18.239, 46.18.240, 46.18.243, 46.18.302 and 46.18.329 as proposed. Although ARM 46.18.314 was proposed for amendment, it had previously been repealed.

3. The Department has amended the following rules as proposed with the following changes from the original proposal. Matter to be added is underlined. Matter to be deleted is interlined.

46.18.306 FAIM EMPLOYMENT AND TRAINING ACTIVITIES

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

(e) post-secondary training or education in the pathways or community services program if post-secondary training or education is an acceptable pathways or CSP activity in the community where the participant resides and the criteria of the community operating plan for that community are met, subject to the provisions of (4).

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

(2) Participants who are members of a two-parent family may also, in accordance with their employability plan or FIA and subject to the approval of their case manager, participate in educational activities as follows:

~~(a)~~ activities to qualify for a high school diploma or

equivalency and remedial adult educational activities as determined appropriate by the case manager; and,

~~(b) post-secondary education only if the recipient is enrolled in the course or program of study under a Job Training Partnership Act (JTPA), vocational rehabilitation, Trade Adjustment Act or refugee assistance center program or a similar program approved by the department.~~

(3) remains as proposed.

(4) Post-secondary education or training is not an acceptable activity for an individual who terminates employment or reduces hours of employment to pursue that education or training unless:

(a) the individual had good cause as defined in ARM 46.18.136 for terminating employment or reducing hours of employment; or

(b) it is determined in accordance with provisions of the community operating plan in the community where the individual resides that it is reasonable for the individual to terminate employment or reduce hours of employment in order to pursue post-secondary education or training.

AUTH: Sec. 53-4-212, MCA

IMP: Sec. 53-2-201, 53-4-211, 53-4-601 and 53-4-613, MCA

46.18.309 FAIM EMPLOYMENT AND TRAINING: WORK EXPERIENCE PROGRAM (WEX) (1)(a) through (1)(c) remain as proposed.

(2) After consulting with the participant and giving due consideration to the participant's preferences, ~~t~~The department shall determine whether the participant shall participate in the work experience program (WEX) rather than in some other component, what work site the participant will be assigned to and how many hours per week the participant shall be required to participate. However, participants may not be required to participate more than 40 hours per week in work experience component activities, including hours spent in volunteer activities or paid employment.

(3) through (3)(d) remain as proposed.

AUTH: Sec. 53-4-212, MCA

IMP: Sec. 53-2-201, 53-4-211, 53-4-601 and 53-4-613, MCA

46.18.318 FAIM EMPLOYMENT AND TRAINING: POST-SECONDARY PARTICIPATION CRITERIA (1) through (1)(b) remain as proposed.

(c) the training provides skills which the department has determined will lead to gainful employment in the area where the participant lives or in an area of Montana the United States to which the participant is willing to move;

(1)(d) through (4) remain as proposed.

AUTH: Sec. 53-4-212, MCA

IMP: Sec. 53-2-201, 53-4-211, 53-4-601 and 53-4-613, MCA

4. The Department has thoroughly considered all commentary received. The comments received and the department's response to each follow:

COMMENT #1: Subsection (2) of ARM 46.18.309 regarding the Work Experience Program (WEX) states that the Department shall determine whether the participant participates in WEX rather than in some other component, what work site the participant will be assigned to, and how many hours per week the participant shall be required to participate. The proposed rule should be changed to state that the participant will be included in these decisions, which would be in keeping with the FAIM Program's stated intention to establish FIA activities with participant input.

RESPONSE: Although the Department has the ultimate authority to make these decisions if the participant and the Department are not in agreement, it has always been the Department's policy to consult with the participant and take into consideration the participant's preferences when making such determinations. Language is being added to subsection (2) to specify that the Department will consult with the participant and duly consider the participant's preferences.

COMMENT #2: In ARM 46.18.318 regarding post-secondary training and education participation criteria, subsection (1)(c) requires that the education or training provide skills which the Department has determined will lead to gainful employment in the area where the participant lives or in an area of Montana to which the participant is willing to move. This should be changed to include also an area of the United States to which the participant is willing to move, since some participants have successfully relocated to other states to accept employment following completion of post-secondary education.

RESPONSE: The Department agrees and has changed subsection (1)(c) to reflect this.

COMMENT #3: Commentors recommend post-secondary education as an allowable Family Investment Agreement activity for two-parent families.

RESPONSE: With the increased participation hours required under the TANF regulations, the Department has decided to expand community flexibility regarding post-secondary education as an allowable activity for two-parent families. ARM 46.18.306 has been amended to reflect this policy change. However, ARM 46.18.305 has also been amended to provide that post-secondary education will be an acceptable activity for a parent who terminates employment or reduces hours of employment to go to school only if there was good cause for terminating or reducing employment other than to attend school or if it is determined in

accordance with provisions of the community operating plan that it was reasonable for the individual to terminate or reduce employment to go to school. This provision is being included to ensure that a parent who is already employed does not quit a job to attend school unless this would be a reasonable decision based on the parent's current wages and prospects in that job. Since the purpose of the FAIM program is to help parents obtain employment, it would be counterproductive to allow a parent to quit a good job to attend school.

COMMENT #4: One commentor recommends the Department continue to make a commitment to guarantee child care to families who are mandated to participate in FAIM. FAIM participants face time limits and should be able to count on needed child care to obtain education and training that will enable them to successfully move from welfare to employment.

RESPONSE: With the passage of Public Law 104-103 (PRWORA), federal funding for child care assistance became available to states through a Block Grant. The funding change required the Department to amend its existing child care rules. These rules are stated throughout ARM 37.80.101 through 37.80.501. With the block granting of federal funds, child care (like cash assistance) is not an entitlement. FAIM participants continue to receive the highest priority when determining child care assistance eligibility but the Department cannot guarantee availability of the limited federal dollars.

Because of the block granting of child care assistance, extended child care is no longer governed by the FAIM Demonstration Project. However, the Department's revised child care rules (ARM 37.80.101 et. seq.) continue to allow assistance for participants who lose eligibility for the FAIM programs if funding is available. Eligibility for child care assistance may continue if the family meets all child care eligibility requirements, their income does not exceed the Sliding Fee Scale Income Limits and they continue to pay their required copayment.


Rule Reviewer


Director, Public Health and
Human Services

Certified to the Secretary of State December 7, 1998.

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

In the matter of the) NOTICE OF AMENDMENT
amendment of rules 46.20.103,)
46.20.106, 46.20.114,)
46.20.120 and 46.20.123)
pertaining to the Montana)
mental health access plan)

TO: All Interested Persons

1. On October 22, 1998, the Department of Public Health and Human Services published notice of the proposed amendment of the above-stated rules at page 2843 of the 1998 Montana Administrative Register, issue number 20.

2. The Department has amended rules 46.20.103, 46.20.106, 46.20.114 and 46.20.123 as proposed.

3. The Department has amended the following rule as proposed with the following changes from the original proposal. Matter to be added is underlined. Matter to be deleted is interlined.

46.20.120 MENTAL HEALTH ACCESS PLAN, PREMIUM PAYMENTS, AND MEMBER COPAYMENTS (1) through (5) remain as proposed.

~~(6) A non-medicaid member must pay a copayment of the lesser of the cost of the drug or \$10 on the purchase of any pharmaceutical prescription.~~

~~(a) The total of pharmaceutical prescription copayments for a member may not exceed \$50 per month.~~

~~(b) The total of pharmaceutical prescription copayments for a family with more than one non-medical member of the plan may not exceed \$100 per month.~~

~~(c) The MCO may waive payment of a copayment payment for purposes of managing risk.~~

(6) A pharmaceutical provider may charge a copayment on the purchase of a prescription by a non-medicaid member of the plan subject to the following limitations.

(a) The copayment may not exceed for each filling of a prescription the lesser of the cost of that particular filling or \$10.

(b) The total of copayments paid per month by a member may not exceed \$50.

(c) The total of copayments paid per month by a family with more than one non-medicaid member may not exceed \$100.

(7) through (9) remain as proposed.

AUTH: Sec. 53-2-201, ~~53-6-113~~ and 53-6-131, MCA;

IMP: Sec. 53-1-405, 53-1-601, 53-2-201, ~~53-6-101~~,
53-6-113, ~~53-6-116~~ and 53-6-131, MCA

4. The amendments to ARM 46.20.103, 46.20.106, 46.20.114 and 46.20.123, in accordance with the Montana Administrative Procedure Act, are effective the day after publication.

ARM 46.20.120, as amended by this notice of rule adoption, relating to the imposition of premium and copayment payments, is effective contingent upon the entry of an order of a court of competent jurisdiction staying the applicability of CI-75 or upon the entry of a judgement by a court of competent jurisdiction providing that the imposition of the types of payments provided for by the amendments to the rule do not constitute a violation of constitutional initiative, CI-75 and therefore the implementation of those payments are legally valid.

The amendments to ARM 46.20.120, relating to the imposition of premium and copayment payments, if adopted as provided by this notice, are repealed upon a determination by the Montana Supreme Court that the imposition of those types of payments do constitute a violation of the constitutional initiative, CI-75 and therefore the implementation of those payments are legally invalid.

ARM 46.20.120, as it reads prior to the adoption of the amendments as provided by this notice of amendment, remains effective and is of effect contingent upon an order of a court of competent jurisdiction restraining or otherwise preventing the imposition of the premium and copayment payments, to be implemented through ARM 46.20.120, as amended by this notice, or upon the determination by the Montana Supreme Court that the imposition of those types of payments do constitute a violation of constitutional initiative, CI-75 and therefore the implementation of those payments are legally invalid.

ARM 46.20.120, as it reads prior to the adoption of the amendments to be adopted as provided by this notice of amendment, is repealed upon a determination by the Montana Supreme Court that the imposition of premium and copayment payments, as implemented through ARM 46.20.120, as amended by this notice, do not constitute a violation of constitutional initiative, CI-75 and therefore the implementation of those payments are legally valid or upon the determination of the Montana Supreme Court or a federal court rendering a final decision upon appeal that CI-75 is void as adopted or as applied to matters encompassing the imposition of premium and copayment payments.

5. The Department has thoroughly considered all commentary received. The comments received and the Department's response to each follow:

COMMENT #1: The proposed pharmacy copay will make it difficult

for consumers to receive necessary medications, especially for those who have multiple prescriptions.

The proposed copayment for drugs risks having mentally ill people go without necessary medications; it would be preferable to reduce eligibility for the program than to have people lose the pharmacy benefit. The proposal does not adequately address the problem of people who have multiple prescriptions.

The proposed copayment is too high and is regressive.

The proposed pharmacy copay should be limited to a maximum of \$30 per month.

RESPONSE: The Department in response to several comments concerning the nature and application of copayments has determined that the preferred course is to not impose copayments as a requirement for all dispensed drugs provided to non medicaid members. The rule as adopted allows the individual drug providers to elect to impose a copayment. The rule does, however, retain the limitations upon total copayments to be made by a single non medicaid member or by a family with more than one non medicaid member. These limitations will prevent a member or family from bearing extraordinary costs due to the total of copayments on a high number of prescriptions. The presence of a "point of sale" management system for pharmacy reimbursement will make administration of the copayment limitations feasible.

The proposed copayment of 10 dollars per prescription is a restatement of existing rule and policy. The Department recognizes the potential jeopardy for those who have several prescriptions and has provided for a maximum monthly copayment of \$50 for an individual and \$100 for a family.

A copayment, by its nature, and like most other day-to-day costs, is regressive. The Department has discussed alternative, progressive limits with the managed care organization and has not identified an effective and reliable way to administer a progressive copay.

COMMENT #2: The proposed premium and copay requirements may be considered a new fee which would require a vote under CI-75.

The imposition of premiums and copayments by a state agency via administrative rule violates Article VII, Section 17 of the Montana Constitution, which was recently enacted by passage of CI-75.

RESPONSE: The Department has requested a formal opinion from the Montana Attorney General regarding the applicability of CI-75 to the proposed premium payment and copayment provisions and

will not allow the premiums and the revised copayments to be implemented until the Attorney General determines they do not fall under the definition of a tax as contained in CI-75 or the implementation of CI-75 is stayed by a court of competent jurisdiction.

COMMENT #1: The proposed premium required for non medicaid members to receive services under the Mental Health Access Plan would prevent many low-income individuals from getting services.

The cost-sharing levels, as proposed, are so high as to be untenable for eligible individuals throughout the income spectrum contemplated. A person with annual income between \$2,000 and \$4,000 may have to pay as much as \$60.00 per month in combined premium payments and prescription copayments. Consumers would be forced to choose between medications and treatment, or food and shelter. It simply will not work.

Many consumers stated they would not be able to afford the premium payments and will not receive needed services as a result.

The proposed premium plan creates substantial barriers for consumers, additional burdens for providers, and appears to be administratively cumbersome.

The managed care company will be unable to accurately and consistently track and collect payments.

The premium payment concept has been suggested by the managed care company as a way to actively disenroll members from the plan.

The proposed premium should be limited to a maximum of \$30 per month.

Non medicaid enrollees are a small percentage of the total number of clients served in Montana's managed care contract. You might try including the medicaid enrollees in the premium payment requirement. This would allow you to charge everyone less.

RESPONSE: The concept of financial participation by non medicaid MHAP members is not new. The proposed rule restructures that participation from a general copayment for all services received, subject to monthly maximums that vary with income, as contained in the existing rule to the proposed premium and pharmacy copayment structures. The change is proposed in large part to simplify the participation requirement for both the member and the managed care organization. The proposed premium structure will be easier to administer and will ensure that no member overpays as happened frequently under the

original structure. It will allow non medicaid members to more easily plan and budget for mental health expenses.

The proposed premium payment schedule provides for no premium at the lowest income levels and a graduated monthly premium that increases with increasing income for individuals and families with incomes above 25% of the Federal Poverty Level.

The proposed rule also provides that the managed care company may waive premium payment requirements. The Department will require the managed care company to establish written policies and procedures for granting waivers and will closely monitor the implementation of the premium payment process to ensure those most at risk do not drop out of service because of an inability to pay.

Federal regulations do not permit Medicaid recipients to be charged a premium for Medicaid coverage.

Therefore, the Department sees no need to modify the premium payment provisions in the proposed rule.

COMMENT #4: Potential members should not be required to apply for financial determination at the local county human services department and then apply at the provider for clinical determination as part of the proposal to have the Department determine financial eligibility.

RESPONSE: The Department is confident that it can design a process which will not require applicants to visit any government office. The process, from the point of view of the consumer and of the provider, will be unchanged in all essential aspects.

Therefore, the Department sees no need to modify the eligibility determination provisions in the proposed rule.

COMMENT #5: I support the changes to limit substance abuse intoxication diagnoses.

RESPONSE: The Department has implemented those changes.

COMMENT #6: I support the proposed change to limit payment of emergency services to only those clients who become eligible.

RESPONSE: The change in presumptive eligibility imposes this limitation only on hospital emergency room treatment and will not affect community-based emergency services. The Department has implemented the change.

COMMENT #7: The provisions in the proposed rule for waiver of premium and copayment are too vague.

RESPONSE: Waivers of these financial requirements must be, by their nature, considered on a case-by-case basis. It is impossible to anticipate all possible situations which would merit a waiver of premium or copayment. Inclusion of specific requirements in rule would limit flexibility and inevitably result in a more restrictive review of waiver applications than would otherwise be the case.

Therefore, the Department will not modify the rule to be more specific with regard to waivers of financial participation by non medicaid members.

COMMENT #8: The Department should revise the appeal procedures for recipients.

RESPONSE: While this notice does not involve the substance of the appeals process, the Department is considering changes in the rule regarding appeals to the state.

COMMENT #9: The proposed rules would remove coverage of important services in particular services for persons whose alcohol and drug problems need resolution in order to successfully treat their underlying mental health conditions.

RESPONSE: Substance abuse treatment was never included under the MHAP, and, in fact, the existing administrative rules specify that services for substance abuse are not required to be covered by the managed care organization. The diagnoses that are being eliminated from coverage under the MHAP are those that are treated primarily through detoxification procedures. Treatment for these diagnoses will still be available under the Medicaid fee-for-service program.

COMMENT #10: The rule will cause providers to have to do split billing for services related to the alcohol and drug diagnosis codes that are to be removed. How are providers to do split billing for services currently under revenue codes for emergency room and ancillary services? How will a provider distinguish a split bill from a duplicative bill when working with encounter data? Will providers have to submit split bills with complete diagnosis information? Will there be payment for mental health treatment when covered diagnosis codes appear as secondary diagnosis codes?

RESPONSE: Providers will continue to direct claims to MCP for services provided when the principle diagnosis is one covered under the MHAP and to other payers, as appropriate, when the diagnosis is other than a MHAP covered diagnosis. There is nothing in the rule which requires or permits split billing.

COMMENT #11: Why remove coverage of emergency room care provided through presumptive eligibility when the Department has

no supporting evidence of a problem? In addition, why has the MCO not pursued collection of payments it made for emergency services since the current rules allow it to do so?

RESPONSE: The Department believes strongly that the MHAP, as with any publicly funded program, should be the payor of last resort and that benefits should be restricted to those who qualify under stated eligibility criteria. If there is no abuse of the presumptive eligibility provisions occurring in emergency rooms, this change will have no adverse effect.

The presumptive eligibility provisions require the MCO to pay the emergency provider regardless of the potential eligibility of the individual being treated. If eligibility is not subsequently approved, the MCO has no recourse to the provider, no access to information about possible third-party payers, and little chance of successful collection from the patient. While the Department has no evidence that the MCO has or has not pursued payment from the patient, the matter is irrelevant to the issue of providing publicly-funded services to ineligible persons.

COMMENT #12: The Department does not have statutory authority to impose the proposed premium payments. The Department only has authority to impose actual fees for services.

RESPONSE: There is appropriate statutory authority for the implementation of a premium in place of the current set of general copayments.

COMMENT #13: Does the proposal that the Department in certain circumstances pay the premiums required of enrollees violate the federal anti-kickback statutes?

RESPONSE: There does not appear to be any violation of the federal anti-kickback statute. The Department would abide by any direction that reviewing federal authorities might provide in relation to the matter.

COMMENT #14: Will there be other sources for services to persons who lose eligibility under the proposed changes such as a pro bono system or a state system of indigent services? How will providers deal ethically with persons in need of services for which the plan does not provide coverage?

RESPONSE: The MHAP is the sole public mental health program and, like all such programs, must establish criteria for eligibility. The Department will assertively monitor MCP's review of waiver requests and people who discontinue membership through failure to pay required premiums.

Many of the people now being served as non medicaid members of

the MHAP were previously served by providers at reduced rates. Some providers may choose to resume that practice. The Department neither encourages or discourages providers in adjusting fee schedules to reflect the ability of private pay clients to pay.

COMMENT #15: Rather than impose the payments as proposed in the rule notice, the Legislature must restore the funds that the legislature took away last session since those funds were calculated as necessary to make the plan financially viable.

RESPONSE: The Department must proceed with the rule-making process based upon present law and upon the proposed executive budget for the coming biennium. In the event that the legislature significantly enhances funding for the MHAP for the coming biennium, the Department could in the future modify premium payment and copayment provisions in the rule.

COMMENT #16: Persons who receive services through the Plan, may not have the ability to reliably anticipate their need for services and prospectively pay the premium necessary for the receipt of the services.

RESPONSE: The Department and the managed care organization are aware that some MHAP members' mental illness may interfere with judgement and ability to plan. We will address these issues in procedures that the MCO will establish for collecting premium payments and for discontinuing members for non-payment.

COMMENT #17: The Department should implement an annual enrollment fee and copay requirements as proposed by the Montana Chapter of the National Association of Social Workers. The premium fee would be based upon income and family size. The copay would only apply to outpatient services.

RESPONSE: The Department has considered this suggestion, submitted it to the MCO, and discussed it in detail with the MCO. We have determined that it does not achieve the level of financial participation by non medicaid members that obtained under the original copay requirements or under the proposed combination of pharmacy copay and monthly premium payment.

The following comments were determined to deal with operational matters and issues not related to the proposed rules. Therefore, it is not appropriate to address them in this context, and the Department has elected not to respond.

COMMENT #18: The case management, mental health worker and respite services should be paid on an as used basis instead of a block pre-payment since those services may not be used.

COMMENT #19: The Department should have not allowed MCP to send out notices about changes before there is a hearing and rule adoption.

COMMENT #20: How will disproportionate share statistics for medicare payments be determined when a provider submits two bills for a single episode of care; one to the medicaid program and one to MCO?


COMMENT #21: Will MCO have to approve services for noncovered services that need to be provided concomitant to the mental health treatment when the course of those services may affect the duration of mental health services?

COMMENT #22: How will coding disputes between a provider and the MCO be resolved? By the Department?

COMMENT #23: How will providers verify current eligibility?

COMMENT #24: Will there still be reimbursement for the initial clinical interview?

COMMENT #25: Are there going to be regional centers for diagnostic interviews and needs assessments to assure the continuity of services?


Rule Reviewer


Director, Public Health and
Human Services

Certified to the Secretary of State December 7, 1998.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMENDMENT) NOTICE OF AMENDMENT
of ARM 42.21.113, 42.21.122,)
42.21.123, 42.21.131, 42.21.)
137, 42.21.138, 42.21.139,)
42.21.140, 42.21.151, 42.21.)
153, and 42.21.155 relating to)
Personal Property Trended)
Depreciation Schedules and)
Valuations for Tax Year 1999)

TO: All Interested Persons:

1. On September 10, 1998, the Department published notice of the proposed amendment of ARM 42.21.113, 42.21.122, 42.21.123, 42.21.131, 42.21.137, 42.21.138, 42.21.139, 42.21.140, 42.21.151, 42.21.153, and 42.21.155 relating to Personal Property Trended Depreciation Schedules and Valuations for Tax Year 1999 at page 2451 of the 1998 Montana Administrative Register, issue no. 17.

2. A public hearing was held on October 2, 1998. No one appeared at the hearing. Written comments received subsequent to the hearing are summarized as follows along with the Department responses:

COMMENT 1: Representative John Cobb, Augusta, Montana, submitted written comments. Representative Cobb asked if the department could use a different trending and depreciation practice regardless of the present rules. In other words, could the department either expand depreciation or lower the total tax on certain property that is now being taxed at a higher market value.

RESPONSE: The department is charged with the responsibility of valuing personal property at market value. Trend factors and depreciation schedules that arbitrarily lower the value of certain property could only be used if new laws were enacted to change the value standard to something other than market value.

COMMENT 2: Can the department lower the depreciation schedules so that there is a \$12 million reduction in these properties for calendar 1999? Or at least, a lesser amount than will happen under the proposed rules.

RESPONSE: As previously stated, the department is charged with the responsibility of valuing personal property at market value. Any change that would ensure a \$12 million or other reduction in market value for 1999 would be contrary to statute.

COMMENT 3: If the department lowers these schedules and it creates less taxes for the next calendar year, can the department, Governor, or legislature introduce a bill that would

reimburse local governments for the property tax loss created by the reduction to the market value of all or some of this property?

RESPONSE: For the reasons previously stated, the department cannot lower the schedules without a statutory change. However, all of the parties mentioned in the question could introduce legislation which would provide for reimbursement to local governments for the loss of the value. If laws were enacted to reduce or eliminate personal property valuation, the department would amend the rules accordingly.

COMMENT 4: Can the department change the depreciation schedules so that small businesses compared to other larger companies in Montana get a tax reduction from the depreciation schedule changes? For instance, perhaps, many small businesses have a lot more property that is valued at \$100 or less for tax purposes, compared to many larger companies. If the department exempts or lowers those properties for valuation then the taxes would be lower. Another case would be that there could be a lot of older property owned by small businesses and the department could allow a larger depreciation for older equipment like the department does now.

RESPONSE: The current depreciation schedules in the rules are formulated for specific types of personal property and are applied to all personal property of the same type, regardless of the size of the business. The standard methodology for determining those schedules has been specified in the rules for many years. Using schedules that would value like property differently would also require a legislative change.

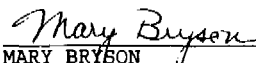
COMMENT 5: Can the department reduce certain property depreciation schedules or market values so that there is no tax on the property? Can the department amend the rules to show no market value on certain property? For instance, can the department show a value last year of \$100 on property and no value for calendar year 1999?

RESPONSE: The current depreciation schedules have a minimum percent good that maintains a residual value for older personal property still used in a business. To apply the theory that personal property with a value of \$100 or less has no value, we believe would require a statutory exemption; much like the current exemption for agricultural machinery and equipment.

3. The Department has amended the rules as proposed.



CLEO ANDERSON
Rule Reviewer



MARY BRYSON
Director of Revenue

Certified to Secretary of State December 7, 1998


BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

IN THE MATTER OF THE AMENDMENT) NOTICE OF AMENDMENT
OF ARM 42.22.1311 and 42.22.)
1312 relating to Industrial)
Property Trend Factors)

TO: All Interested Persons:

1. On November 5, 1998, the Department published notice of the proposed amendment of ARM 42.22.1311 and 42.22.1312 relating to Industrial Property Trend Factors at page 2949 of the 1998 Montana Administrative Register, issue no. 21.
2. No comments were received regarding these rules.
3. The Department has amended the rules as proposed.


CLEO ANDERSON
Rule Reviewer


MARY BRYSON
Director of Revenue

Certified to Secretary of State December 7, 1998

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 | 1. Consult ARM topical index. |
| Subject | Update the rule by checking the accumulative |
| Matter | table and the table of contents in the last |
| | Montana Administrative Register issued. |
| Statute | 2. Go to cross reference table at end of each |
| Number and | title which lists MCA section numbers and |
| Department | 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 September 30, 1998. This table includes those rules adopted during the period October 1, 1998 through December 31, 1998 and any proposed rule action that was 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 September 30, 1998, 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 1998 Montana Administrative Registers.

To aid the user, the Accumulative Table includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number. These will fall alphabetically after department rulemaking actions.

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BOARD APPOINTEES AND VACANCIES

Section 2-15-108, MCA, 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 2-15-108, MCA, is 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 effective in November 1998, appear. Vacancies scheduled to appear from January 1, 1999, through March 31, 1999, are listed, as are current vacancies due to resignations or other reasons. Individuals interested in serving on a board should refer to the bill that created the board for details about the number of members to be appointed and necessary qualifications.

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 December 3, 1998.

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 FROM NOVEMBER, 1998

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Board of Plumbers (Commerce)			
Mr. Greg Butts	Governor	Knatterud	11/5/1998
Helena			5/4/1999
Qualifications (if required):	sanitary engineer		
Eastern Montana State Veterans Cemetery Advisory Council (Military Affairs)			
Mr. Tony Harbaugh	Director	not listed	11/10/1998
Miles City			11/10/2000
Qualifications (if required):	representative of Custer County Sheriff's Office		
Mr. James F. Jacobsen	Director	not listed	11/10/1998
Helena			11/10/2000
Qualifications (if required):	none specified		
Mr. Henry "Bill" Hopkins	Director	not listed	11/10/1998
Ismay			11/10/2000
Qualifications (if required):	representative of Disabled American Veterans		
Ms. Betty Hopkins	Director	not listed	11/10/1998
Ismay			11/10/2000
Qualifications (if required):	representative of Disabled American Veterans Auxiliary		
Mr. Jess Erickson	Director	not listed	11/10/1998
Miles City			11/10/2000
Qualifications (if required):	representative of Veterans of Foreign Wars		
Ms. Mary Jane Warrior	Director	not listed	11/10/1998
Miles City			11/10/2000
Qualifications (if required):	representative of Veterans of Foreign Wars Auxiliary		
Mr. Bob Beals	Director	not listed	11/10/1998
Forsyth			11/10/2000
Qualifications (if required):	representative of American Legion		

BOARD AND COUNCIL APPOINTEES FROM NOVEMBER, 1998

Appointee	Appointed by	Succeeds	Appointment/End Date
Eastern Montana State Veterans Cemetery Advisory Council (Military Affairs) cont.			
Ms. Linda Dolatta	Director	not listed	11/10/1998
Terry			11/10/2000
Qualifications (if required):	representative of American Legion Auxiliary		
Mr. Gilbert Walker	Director	not listed	11/10/1998
Billings			11/10/2000
Qualifications (if required):	representative of Disabled American Veterans		
Ms. Marilyn Peterson	Director	not listed	11/10/1998
Billings			11/10/2000
Qualifications (if required):	representative of Disabled American Veterans Auxiliary		
Mr. Gerald Schlepp	Director	not listed	11/10/1998
Miles City			11/10/2000
Qualifications (if required):	representative of Veterans of Foreign Wars		
Ms. Lori Price	Director	not listed	11/10/1998
Miles City			11/10/2000
Qualifications (if required):	representative of Veterans of Foreign Wars Auxiliary		
Mr. Bill Dolatta	Director	not listed	11/10/1998
Terry			11/10/2000
Qualifications (if required):	representative of American Legion		
Ms. Jeanette Elmore	Director	not listed	11/10/1998
Baker			11/10/2000
Qualifications (if required):	representative of American Legion Auxiliary		
Mr. Ed Blaesus	Director	not listed	11/10/1998
Billings			11/10/2000
Qualifications (if required):	representative of Military Order of Purple Heart		

BOARD AND COUNCIL APPOINTEES FROM NOVEMBER, 1998

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Eastern Montana State Veterans Cemetery Advisory Council (Military Affairs) cont.			
Mr. Jim Bertrand	Director	not listed	11/10/1998
Miles City			11/10/2000
Qualifications (if required):	representative of Military Order of the Cooties		
Mr. Stanley Watson	Director	not listed	11/10/1998
Forsyth			11/10/2000
Qualifications (if required):	representative of Marine Corps League		
Mr. Victor Leikam	Director	not listed	11/10/1998
Billings			11/10/2000
Qualifications (if required):	representative of 40 & 8		
Mr. Frank Stoltz	Director	not listed	11/10/1998
Miles City			11/10/2000
Qualifications (if required):	representative of Prisoners of War		
Mr. Ralph Dukart	Director	not listed	11/10/1998
Miles City			11/10/2000
Qualifications (if required):	representative of Department of Military Affairs		
Mr. Joseph Volz	Director	not listed	11/10/1998
Miles City			11/10/2000
Qualifications (if required):	representative of Marine Corps League		
Mr. Robert A. Fagan	Director	not listed	11/10/1998
Billings			11/10/2000
Qualifications (if required):	representative of 40 & 8		
Mr. Ed Croucher	Director	not listed	11/10/1998
Glendive			11/10/2000
Qualifications (if required):	representative of Vietnam Veterans of America		

BOARD AND COUNCIL APPOINTEES FROM NOVEMBER, 1998

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Eastern Montana State Veterans Cemetery Advisory Council (Military Affairs) cont.			
Mr. Frederick S. Rambur Director		not listed	11/10/1998
Miles City			11/10/2000
Qualifications (if required):	representative of Department of Military Affairs		
Mr. Tom Frank Director		not listed	11/10/1998
Miles City			11/10/2000
Qualifications (if required):	representative of Custer County Sheriff/Coroner		
Mr. Joe Stevenson Director		not listed	11/10/1998
Miles City			11/10/2000
Qualifications (if required):	Custer County Commissioner		
Governor's HIV/AIDS Advisory Council (Public Health and Human Services)			
Mr. Frank Gary Governor		not listed	11/23/1998
Butte			11/23/2000
Qualifications (if required):	public member		
Dr. R.D. Marks Missoula		not listed	11/23/1998
Qualifications (if required):	public member		11/23/2000
Mr. Steven C. Yeakel Helena		not listed	11/23/1998
Qualifications (if required):	public member		11/23/2000
Mr. David G. Rice Havre		not listed	11/23/1998
Qualifications (if required):	public member		11/23/2000
Ms. Verbena Savior Poplar		not listed	11/23/1998
Qualifications (if required):	public member		11/23/2000

BOARD AND COUNCIL APPOINTEES FROM NOVEMBER, 1998

<u>Appointee</u>	<u>Appointed by</u>	<u>Succeeds</u>	<u>Appointment/End Date</u>
Governor's HIV/AIDS Advisory Council (Public Health and Human Services) cont.			
Ms. Pam Carter	Governor	not listed	11/23/1998
Bozeman			11/23/2000
Qualifications (if required): public member			
Mr. David Herrera	Governor	not listed	11/23/1998
Billings			11/23/2000
Qualifications (if required): public member			
Ms. Rita Munzenrider	Governor	not listed	11/23/1998
Lolo			11/23/2000
Qualifications (if required): public member			
Ms. Terri Dunn	Governor	not listed	11/23/1998
Whitefish			11/23/2000
Qualifications (if required): public member			
Rep. John Bohlinger	Governor	not listed	11/23/1998
Billings			11/23/2000
Qualifications (if required): legislator			
Ms. Jeri Snell	Governor	not listed	11/23/1998
Miles City			11/23/2000
Qualifications (if required): public member			
Ms. Pam Bragg	Governor	not listed	11/23/1998
Helena			11/23/2000
Qualifications (if required): public member			
Ms. Kim Kovanda	Governor	not listed	11/23/1998
Columbus			11/23/2000
Qualifications (if required): student representative			

BOARD AND COUNCIL APPOINTEES FROM NOVEMBER, 1998

Appointee	Appointed by	Succeeds	Appointment/End Date
Governor's HIV/AIDS Advisory Council (Public Health and Human Services) cont.			
Dr. Raymond Geyer	Governor	not listed	11/23/1998
Great Falls			11/23/2000
Qualifications (if required):	public member		
Mr. Kevin Petersen	Governor	not listed	11/23/1998
Clancy			11/23/2000
Qualifications (if required):	public member		
Ms. Shelly Johnson	Governor	not listed	11/23/1998
Fairfield			11/23/2000
Qualifications (if required):	public member		

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 1999 through MARCH 31, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Appellate Defender Commission (Administration) Ms. Randi Hood, Helena Qualifications (if required): public defender	Governor	1/1/1999
Mr. Daniel Donovan, Great Falls Qualifications (if required): public defender	Governor	1/1/1999
Board of Aeronautics (Transportation) Mr. Leland F. Ford, Bigfork Qualifications (if required): public member	Governor	1/1/1999
Mr. Robert M. Hector, Billings Qualifications (if required): representative of commercial airline operators	Governor	1/1/1999
Ms. Josephine Eisenzimer, Cascade Qualifications (if required): involved in aviation education	Governor	1/1/1999
Mr. Arnold Lindberg, Cut Bank Qualifications (if required): fixed base operator	Governor	1/1/1999
Board of Architects (Commerce) Mr. Eugene Vogl, Billings Qualifications (if required): architect	Governor	3/27/1999
Board of Chiropractors (Commerce) Dr. Patrick Montgomery, Missoula Qualifications (if required): chiropractor	Governor	1/1/1999
Board of Crime Control (Justice) Mr. Craig Anderson, Glendive Qualifications (if required): representative of youth justice	Governor	1/1/1999

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 1999 through MARCH 31, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Crime Control (Justice) cont.		
Mr. Gary Buchanan, Billings	Governor	1/1/1999
Qualifications (if required): public member		
Ms. Jani McCall, Billings		
Qualifications (if required): representative of the Youth Justice Council	Governor	1/1/1999
Ms. Sherry Matteucci, Billings		
Qualifications (if required): U.S. Attorney	Governor	1/1/1999
Sen. Debbie Shea, Butte		
Qualifications (if required): member of the State Senate	Governor	1/1/1999
Rep. Sylvia Bookout, Alberton		
Qualifications (if required): member of the House of Representatives	Governor	1/1/1999
Mayor Laurel Hegstad-Deschamps, Hamilton		
Qualifications (if required): representative of local government	Governor	1/1/1999
Board of Dentistry (Commerce)		
Dr. Mary Youngbauer, Forsyth	Governor	3/29/1999
Qualifications (if required): dentist		
Ms. Kim Anderson, Great Falls		
Qualifications (if required): dental hygienist	Governor	3/29/1999
Board of Health and Environmental Sciences (Health and Environmental Sciences)		
Dr. Dennis Schreffler, Billings	Governor	1/1/1999
Qualifications (if required): health care professional		
Board of Horse Racing (Commerce)		
Dr. Sheldon John "Skip" Score, Helena	Governor	1/20/1999
Qualifications (if required): representing District 4		

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 1999 through MARCH 31, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Housing (Commerce)		
Mr. Bob Thomas, Stevensville	Governor	1/1/1999
Qualifications (if required): public member		
Ms. Barbara Hamlin, Helena	Governor	1/1/1999
Qualifications (if required): public member		
Ms. Waneeta Farris, Forsyth	Governor	1/1/1999
Qualifications (if required): public member		
Board of Investments (Commerce)		
Ms. Maureen J. Fleming, Missoula	Governor	1/1/1999
Qualifications (if required): represents labor		
Mr. F. Lee Robinson, Malta	Governor	1/1/1999
Qualifications (if required): represents business		
Mr. Douglas Bardwell, Missoula	Governor	1/1/1999
Qualifications (if required): represents the financial community		
Mr. Calvin Wilson, Busby	Governor	1/1/1999
Qualifications (if required): attorney and public member		
Board of Labor Appeals (Labor and Industry)		
Ms. Carol Donaldson, Billings	Governor	1/1/1999
Qualifications (if required): public member		
Board of Livestock (Livestock)		
Mr. Jerry E. Leep, Amsterdam	Governor	3/1/1999
Qualifications (if required): represents dairy and poultry producers		
Mr. Leonard Grove, Judith Gap	Governor	3/1/1999
Qualifications (if required): sheep producer		

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 1999 through MARCH 31, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Livestock (Livestock) cont. Mr. Duane Braaten, Kalispell Qualifications (if required): swine producer	Governor	3/1/1999
Board of Natural Resources and Conservation (Natural Resources and Conservation) Mr. Gerald Feda, Glasgow Qualifications (if required): experienced in subjects of natural resources	Governor	1/1/1999
Mr. John Bailey, Livingston Qualifications (if required): experienced in subjects of natural resources	Governor	1/1/1999
Mr. Jack Galt, Martinsdale Qualifications (if required): experienced in subjects of natural resources	Governor	1/1/1999
Board of Oil and Gas Conservation (Natural Resources and Conservation) Mr. Warren H. Ross, Chinook Qualifications (if required): landowner with mineral rights	Governor	1/1/1999
Mr. Dean A. Swanson, Polson Qualifications (if required): in the oil and gas industry	Governor	1/1/1999
Mr. Denizil Young, Baker Qualifications (if required): landowner with no mineral rights	Governor	1/1/1999
Board of Pardons (Corrections and Human Services) Mr. Patrick T. Fleming, Butte Qualifications (if required): attorney	Governor	1/1/1999
Board of Personnel Appeals (Labor and Industry) Mr. Leonard A. McKinney, Lewistown Qualifications (if required): labor-management experience	Governor	1/1/1999

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 1999 through MARCH 31, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Personnel Appeals (Labor and Industry) cont. Ms. Jean Hagan, Hamilton Qualifications (if required): representative of management in collective bargaining activities	Governor	1/1/1999
Mr. Tom Foley, Helena Qualifications (if required): substitute board member representing labor	Governor	1/1/1999
Mr. Lloyd Doney, East Helena Qualifications (if required): substitute member representing management	Governor	1/1/1999
Board of Public Education (Education) Mr. Wilbur Anderson, Dillon Qualifications (if required): Democrat from First Congressional District	Governor	2/1/1999
Board of Science and Technology Development (Commerce) Mr. Larry Gianchetta, Missoula Qualifications (if required): representative of the public sector	Governor	1/1/1999
Dr. Rebecca Mahurin, Bozeman Qualifications (if required): representing the private sector	Governor	1/1/1999
Mr. Dolph Harris, Sidney Qualifications (if required): representative of private business	Governor	1/1/1999
Ms. Susan Riplett, Billings Qualifications (if required): knowledgeable about private business financing	Governor	1/1/1999
Board of Social Work Examiners and Professional Counselors (Commerce) Dr. Leta Livoti, Helena Qualifications (if required): licensed professional counselor	Governor	1/1/1999

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 1999 through MARCH 31, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Board of Social Work Examiners and Professional Counselors Ms. Antoinette Rosell, Billings Qualifications (if required): licensed professional counselor	(Commerce) cont. Governor	1/1/1999
Judge Richard A. Simonton, Glendive Qualifications (if required): attorney and public member	Governor	1/1/1999
Board of Social and Rehabilitation Appeals (Social and Rehabilitation Services) Ms. Donna Heggen, Lolo Qualifications (if required): public member	Governor	1/1/1999
Coal Board (Commerce) Ms. Janice Riebhoff, Belgrade Qualifications (if required): has expertise in education and represents District 2	Governor	1/1/1999
Ms. Linda Price, Lewistown Qualifications (if required): has expertise in education and represents District 3	Governor	1/1/1999
Mr. John Sutton, Butte Qualifications (if required): residing in District 4 and having engineering experience	Governor	1/1/1999
Commission for Human Rights (Labor and Industry) Mr. Jack Copps, Seeley Lake Qualifications (if required): public member	Governor	1/1/1999
Commissioner of Political Practices (Commissioner of Political Practices) Mr. Ed Argenbright, Helena Qualifications (if required): none specified	Governor	1/1/1999
Developmental Disabilities Planning and Advisory Council (Public Health and Human Services) Sen. Sharon Estrada, Billings Qualifications (if required): member of the State Senate	Governor	1/1/1999

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 1999 through MARCH 31, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Developmental Disabilities Planning and Advisory Council (Public Health and Human Services) cont.		
Rep. Bob Lawson, Whitefish	Governor	1/1/1999
Qualifications (if required): member of the State House of Representatives		
Fish, Wildlife and Parks Commission (Fish, Wildlife and Parks)		
Ms. Darlyne Dascher, Fort Peck	Governor	1/1/1999
Qualifications (if required): representative of District IV		
Mr. Tim Mulligan, Whitehall	Governor	1/1/1999
Qualifications (if required): representing District 2		
Hard-Rock Mining Impact Board (Commerce)		
Mr. David Young, Troy	Governor	1/1/1999
Qualifications (if required): representative of the industry		
Ms. Betty Aye, Broadus	Governor	1/1/1999
Qualifications (if required): school board trustee		
Human Rights Commission (Labor and Industry)		
Ms. Kathy Ogren, Missoula	Governor	1/1/1999
Qualifications (if required): public member		
Independent Living Advisory Council (Public Health and Human Services)		
Ms. Kris Kleinschmidt, Great Falls	Director	2/1/1999
Qualifications (if required): none specified		
Judicial Nomination Commission (Justice)		
Mr. Frank Stock, Polson	Governor	1/1/1999
Qualifications (if required): public member		

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 1999 through MARCH 31, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Milk Control Board (Commerce) Dr. Robert Greer, Bozeman Qualifications (if required): Democrat	Governor	1/1/1999
Mr. Michael F. Kleese, Stevensville Qualifications (if required): Democrat and an attorney	Governor	1/1/1999
Missouri River Basin Advisory Council (Natural Resources and Conservation) Ms. Diane Brandt, Glasgow Qualifications (if required): public member	Governor	2/25/1999
Mr. Don Pfau, Lewistown Qualifications (if required): public member	Governor	2/25/1999
Mr. Bud Clinch, Helena Qualifications (if required): Director of the Department of Natural Resources and Conservation	Governor	2/25/1999
Mr. Chuck Carlson, Fort Peck Qualifications (if required): public member	Governor	2/25/1999
Mr. Jim Rector, Glasgow Qualifications (if required): public member	Governor	2/25/1999
Mr. Ron Miller, Glasgow Qualifications (if required): public member	Governor	2/25/1999
Mr. Steve Page, Glasgow Qualifications (if required): public member	Governor	2/25/1999
Mr. Tom Huntley, Sidney Qualifications (if required): public member	Governor	2/25/1999

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 1999 through MARCH 31, 1999

Board/current position holder	Appointed by	Term end
Missouri River Basin Advisory Council (Natural Resources and Conservation) cont.	Governor	2/25/1999
Mr. John Foster, Lewistown Qualifications (if required): public member		
Mr. Boone A. Whitmer, Wolf Point Qualifications (if required): public member	Governor	2/25/1999
Montana Health Facility Authority Board (Commerce) Mr. Sidney K. Brubaker, Terry Qualifications (if required): public member	Governor	1/1/1999
Ms. Dalcyce K. Flynn, Townsend Qualifications (if required): public member	Governor	1/1/1999
Mr. Greg Hanson, Missoula Qualifications (if required): attorney	Governor	1/1/1999
Montana Highway Commission (Transportation) Mr. Ed Smith, Helena Qualifications (if required): Republican residing in District 4	Governor	1/1/1999
Mr. Dan Larson, Libby Qualifications (if required): Democrat in District 1	Governor	1/1/1999
Montana State Lottery Commission (Commerce) Mr. Robert Crippen, Butte Qualifications (if required): certified public accountant	Governor	1/1/1999
State Employee Group Benefits Advisory Council (Administration) Mr. Tom Burgess, Helena Qualifications (if required): none specified	Director	1/1/1999

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 1999 through MARCH 31, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
State Tax Appeal Board (Administration) Mr. Patrick E. McKelvey, Helena Qualifications (if required): none specified	Governor	1/1/1999
Whirling Disease Task Force (Fish, Wildlife and Parks) Mr. Jim Ahrens, Helena Qualifications (if required): public member	Governor	2/7/1999
Sen. Mike Halligan, Missoula Qualifications (if required): public member	Governor	2/7/1999
Mr. Pat Graham, Helena Qualifications (if required): public member	Governor	2/7/1999
Mr. John Bailey, Livingston Qualifications (if required): public member	Governor	2/7/1999
Mr. Robin Cunningham, Gallatin Gateway Qualifications (if required): public member	Governor	2/7/1999
Rep. Karl Ohs, Harrison Qualifications (if required): public member	Governor	2/7/1999
Mr. Roger Nelson, Livingston Qualifications (if required): public member	Governor	2/7/1999
Dr. Marshall Bloom, Hamilton Qualifications (if required): public member	Governor	2/7/1999
Mr. Bud Lilly, Bozeman Qualifications (if required): public member	Governor	2/7/1999

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 1999 through MARCH 31, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Whirling Disease Task Force (Fish, Wildlife and Parks) cont.		
Mr. Dud Lutton, Helena Qualifications (if required): public member	Governor	2/7/1999
Mr. Art Neill, Butte Qualifications (if required): public member	Governor	2/7/1999
Ms. Chris Somers, Butte Qualifications (if required): public member	Governor	2/7/1999
Ms. Marsha "Josh" Turner, Helena Qualifications (if required): public member	Governor	2/7/1999
Mr. Frank Cooper, Helena Qualifications (if required): public member	Governor	2/7/1999
Dr. John Duffield, Ph.D., Missoula Qualifications (if required): public member	Governor	2/7/1999
Mr. John Etgen, Belgrade Qualifications (if required): public member	Governor	2/7/1999
Dr. Willard O. Granath, Jr., Missoula Qualifications (if required): public member	Governor	2/7/1999
Mr. Fred M. Stowell, Missoula Qualifications (if required): public member	Governor	2/7/1999
Dr. William Tietz, Ph.D., Bozeman Qualifications (if required): public member	Governor	2/7/1999
Mr. Richard J. Wesnick, Billings Qualifications (if required): public member	Governor	2/7/1999

VACANCIES ON BOARDS AND COUNCILS -- JANUARY 1, 1999 through MARCH 31, 1999

<u>Board/current position holder</u>	<u>Appointed by</u>	<u>Term end</u>
Whirling Disease Task Force (Fish, Wildlife and Parks) cont. Mr. Bob Wiltshire, Livingston	Governor	2/7/1999
Qualifications (if required): public member		

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