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

In the matter of the amendment of ARM 37.78.102, 37.78.103, 37.78.202, 37.78.206, 37.78.207, 37.78.216, 37.78.228, 37.78.425, 37.78.430, 37.78.801, 37.78.806, and 37.78.807 pertaining to Temporary Assistance for Needy Families (TANF)	)	NOTICE OF AMENDMENT

TO: All Interested Persons

1. On May 10, 2007, the Department of Public Health and Human Services published MAR Notice No. 37-405 pertaining to the public hearing on the proposed amendment of the above-stated rules, at page 597 of the 2007 Montana Administrative Register, issue number 9.

2. The department has amended ARM 37.78.102, 37.78.103, 37.78.202, 37.78.206, 37.78.207, 37.78.216, 37.78.228, 37.78.425, 37.78.430, 37.78.801, 37.78.806, and 37.78.807 as proposed.

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

COMMENT #1: I am concerned about the proposed amendment of ARM 37.78.430 to provide that the department will recover overpayments due to receipt of continued benefits when a recipient loses a hearing regarding the issue of a TANF sanction at the rate of 25% per month rather than 10%. This policy will place an impediment on those wishing to have a hearing when the adverse action is a TANF sanction. It appears to be based on the assumption that the majority of recipients who request hearings regarding TANF sanctions do so only to receive the continuing benefits, which is not a correct assumption. Additionally, even if it were true, why should individuals who really want to argue their case have to be penalized because of some who abuse the hearing system? How do you justify distinguishing the recovery rate between overpayments caused by continuing benefits of sanctions versus all other issues such as a decrease in TANF benefits based upon income calculations? There are abusers amongst all the various adverse action issues.

RESPONSE: By the proposed ARM change, the department does not intend to prevent anyone from pursuing the right to appeal, nor does the department believe the proposed change will have that effect. Instead, as is reflected in the rationale language in the proposal submission of the ARM to the Secretary of State, the department maintains this change is necessary to assist the department in meeting the mandated work participation rate and in negating possible monetary penalties to the state by lowering the incentive for individuals to request a fair hearing solely for

the purpose of retaining cash assistance without a requirement to participate in allowable work activities. In addition to assisting the department in meeting the work participation rate, the department also believes the proposed change will benefit participants by avoiding overpayments on their part, as well as the negative impacts such overpayments may cause to clients' future financial benefits. The department also maintains that at the point of imposition of the higher recoupment amount, the sanction has been found to be justified and an overpayment in the amount of the continued benefits has been established. The department has the right to collect overpayments by any and all means outlined in Administrative Rules of Montana.

4. The department intends that the amendments to ARM 37.78.102, 37.78.103, 37.78.202, 37.78.206, 37.78.207, 37.78.216, 37.78.228, 37.78.425, 37.78.430, 37.78.801, 37.78.806, 37.78.807 be applied retroactively to July 1, 2007. No detrimental effects are anticipated as a result.

/s/ Francis X. Clinch
Rule Reviewer

/s/ John Chappuis for
Director, Public Health and Human Services

Certified to the Secretary of State June 25, 2007.