



Greg Gianforte, Governor

Adam Meier, Director

August 27, 2021

[Tribal leader address]

**Re: 1915(c) Home and Community Based Montana Medicaid Big Sky Waiver for the Elderly and Adults with Physical Disabilities Amendment
and
1915(c) Home and Community Based Montana Medicaid Comprehensive Waiver for Individuals with Developmental Disabilities Amendment**

Effective January 1, 2022

Dear [Title] [Last Name]:

The Montana Department of Public Health and Human Services (DPHHS) is pleased to invite comment from all Tribal Governments, Urban Indian Health Centers, and Indian Health Service regarding the following two 1915(c) Home and Community Based Montana Medicaid Waivers: Big Sky Waiver for the Elderly and Adults with Physical Disabilities and the Comprehensive Waiver for Individuals with Developmental Disabilities (Comprehensive Waiver). DPHHS will submit these two amendments for Centers for Medicare and Medicaid Services approval on or before September 30, 2021. The effective date of the amendments is January 1, 2022.

Under our agreement, DPHHS provides you notice of all Medicaid state plan and waiver changes. To aid your review, we have indicated when there will be a direct impact on reimbursement or coverage for American Indians.

Big Sky Waiver

The Big Sky Waiver serves individuals at all stages of life who are determined to be aged, blind, or physically disabled. The Waiver supports eligible participants, who would otherwise be institutionalized, maintain the ability to live at home and in their communities, advancing the participant's autonomy, control, dignity, and independence. The services delivered within the scope of Big Sky Waiver are made available through the Senior and Long Term Care Division of DPHHS, in partnership with agencies committed to delivering quality long term services and supports to all Montanans.

Adult Residential Rate Increases (Administrative Rule of Montana (ARM) 37.85.105)

DPHHS has determined daily rate increases for assisted living, specialized assisted living for individuals with Traumatic Brain Injury (TBI), and group homes that serve elderly and disabled members are appropriate to address and remedy identified barriers to access and quality service

delivery for elderly and disabled Montanans across the state. The congregate care services identified are necessary to serve the high needs of Montana Medicaid residents:

- Residential Habilitation - Assisted Living Facilities and Adult Foster Homes (billing code T2031) will increase to \$104.00 maximum per day from \$78.80 maximum rate per day.
- Residential Habilitation - TBI/Adult Residential (code T2016) will increase to \$165.77 per day from \$109.78 per day.
- Residential Habilitation - Elderly Disabled Group Home (code T2016) will increase to \$206.58 per day from \$158.91 per day.

New Service Proposal

DPHHS has also determined that residents exhibiting adverse behaviors, or in need of enhanced memory care, prompts the need for the establishment of a new Big Sky Waiver service. Adverse behaviors are often compounded by complex diagnoses and unique disease progression. Behavior management intervention within assisted living facilities promotes a Medicaid resident's greater ability to age in place within their preferred setting and community. A resident's ability to age in place maintains consistency, interpersonal relationships, emotional security, and dignity.

Historically, it has been found that when residents exhibit adverse behaviors, such as verbal and physical aggression, wandering, elopement, frequent falls, and impulsive behaviors and/or actions, assisted living facilities are often compelled to issue residents an involuntary 30-day eviction notice. If discharges are rendered successful, residents often are unnecessarily hospitalized, placed in skilled nursing facilities, or settings specializing in mental health intervention until stabilized.

The name and requested rate for this new service are: Residential Habilitation - Assisted Living Facilities and Adult Foster Homes - Behavior Management (code T2031), reimbursed at \$141.00 per day.

The above changes to the Big Sky Waiver **do not impact** tribal members living in assisted living facilities.

The current Big Sky Waiver fee schedule can be found at <https://medicaidprovider.mt.gov/28#184572515-fee-schedules--elderly-and-physically-disabled-waiver>. The draft Big Sky Waiver amendment is available for review at <http://dphhs.mt.gov/SLTC/csb>.

Comprehensive Waiver

The Comprehensive Waiver is designed to provide developmentally disabled individuals a choice of receiving services in a community setting as an alternative to receiving services in an institutional setting. The waiver member must meet institutional level of care and live in Montana. The Comprehensive Waiver is currently available to serve a total of 2,880 persons statewide.

New Services Proposal

The amendment adds new services that offer a higher level of community care and habilitation for waiver members who are in, or approaching, crisis. These members would otherwise necessitate an institutional level of care to stabilize. The amendment includes service definitions, backgrounds, and rate methodologies. The new services are:

- Behavior Risk Service (BRS) - this acute service diverts the need for members to be admitted to an institutional setting or become incarcerated. BRS services are provided in a bundled daily rate which includes a residential habilitation component:
 - BRS by Board Certified Behavioral Analyst - BCBA (97155) and RBT (97153), reimbursed at \$1004.48 per day.
 - BRS by Intensive Behavior Assistant - IBA (H2019 Modifier UA), reimbursed at \$861.76 per day.

- High Behavior Services (HBS) – this is an intensive community-based service for members who are stepping down from BRS; require an ongoing high level of support to maintain behavior and avoid incidents of harm to self or others; or are at risk of legal or institutional involvement or medical intervention. HBS services are provided in a bundled daily rate which includes a residential habilitation component:
 - HBS by Board Certified Behavioral Analyst - BCBA (97155) and RBT (97153), reimbursed at \$831.78 per day.
 - HBS by Intensive Behavior Assistant - IBA (H2019 Modifier UA), reimbursed at \$730.36 per day.

Other Changes

The amendment also makes the following changes:

- Adds language regarding the availability of retainer payments for providers of Day Supports and Activities services.
- Revises the reserve capacity to increase the number of slots for emergency capacity available to members.
- Revises the reserve capacity to reduce the number of slots reserved for individuals transitioning from institutional settings, due to the closure of Montana’s Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF-IID).
- Changes the access and eligibility of the Child Family Services reserve capacity by replacing the verbiage “aging out” to children who “are 16 years of age or older,” and adding “youth at risk of out-of-home placement” as eligibility criteria.
- Removes the term “institutional care” from the choices of waiver services, to align with Freedom of Choice language.
- Updates Freedom of Choice procedures to align with the Freedom of Choice Form.
- Removes references and requirements of Family Support Specialist-Autism Endorsement (FSS-AE), as this is no longer an available provider type.
- Removes reference and requirements of “Behavior Consultation Team,” as the funding has ended for this service.
- Revises the Remote Monitoring services definition to ensure members’ privacy by including the statement: “Cameras are not permitted in bathrooms or bedrooms.”
- Adds language that allows a 30-day grace period for first aid and CPR certifications of all applicable provider types and clarifies those certifications must then be maintained.
- Adds “relative” and “legal guardian” as paid caregivers for Adult Foster Supports.
- For the following services that currently allow a relative and/or legal guardian as paid caregivers, adds “legally responsible person” as a paid caregiver: Day Supports and

Activities, Homemaker, Residential Habilitation, Companion Services, Personal Care, Personal Supports, Retirement Services, Specialized, Supported Employment-Follow Along Support, Supported Employment-Co-Worker Support, Supported Employment- Individual Employment Support, Supported Employment-Small Group Employment.

- Updates the Home and Community Based Settings activities.
- Removes a case manager’s qualification requirement of having at least one year experience in the field of developmental disabilities to align with Montana’s approved Targeted Case Management Services for Individuals with Developmental Disabilities Enrolled in the 0208 1915(c) Waiver or Eligible Individuals Age 16 and Over State Plan.
- Revises language for Case Management Crisis Intervention to align with the approved Targeted Case Management Services for Individuals with Developmental Disabilities Enrolled in the 0208 1915(c) Waiver or Eligible Individuals Age 16 and Over State Plan.
- Updates language to identify the process for centralized tracking of Quality Assurance Observation Sheets.
- Revises the Procedures for Offering Opportunity to Request a Fair Hearing to include a statement that an individual being denied services will be given a written notice, “by mail, within 30 calendar days.”
- Updates information regarding the eligibility groups served in the Comprehensive Waiver and Montana's post-eligibility treatment of income.
- Updates the following ARM references and language with the most current language:
 - 37.34.918 (0208 Medicaid Home and Community-Based Services Program: Freedom Of Choice);
 - 37.34.919 (0208 Medicaid Home and Community-Based Services Program: Notice and Fair Hearing); and
 - 37.34.109 (Grievance Procedure).

The Comprehensive Waiver amendment **does not impact** Tribes, Urban Indian Centers or Indian Health Service directly.

The current Comprehensive Waiver fee schedule can be found at [DDP FS July 2020 \(mt.gov\)](https://www.mt.gov/Portals/0/DocumentCenter/View/111111).
The draft amendment is available for review at [DDPmedicaid waivers \(mt.gov\)](https://www.mt.gov/Portals/0/DocumentCenter/View/111111).

The state, upon request, will make available hard copies of both draft waiver amendments.

Your questions and comments can be submitted via phone, email or U.S. mail during the public comment period, **from August 29, 2021 through September 27, 2021**, addressed to: Mary Eve Kulawik, Medicaid State Plan Amendment and Waiver Coordinator, at (406) 444-2584 or mkulawik@mt.gov; or Director’s Office, PO Box 4210, Helena, MT 59604-4210.

Thank you for your continued commitment to the Medicaid program.

Sincerely,

Marie Matthews
State Medicaid Director

c: [Tribal Health Director]
Misty Kuhl, Director, Governor’s Office of Indian Affairs
Lesa Evers, Tribal Relations Manager, DPHHS