



ADMINISTRATIVE RULES OF MONTANA



37.5.316 CONTINUATION OF PUBLIC ASSISTANCE BENEFITS

- (1) This rule regarding continuation of benefits applies only to benefits under the following programs:
 - (a) TANF cash assistance;
 - (b) food stamps; and
 - (c) Medicaid, subject to (2).
- (2) For purposes of this rule, benefits include services being received under the Medicaid home and community-based services program for persons who are elderly or who have a disability, or developmental disability services funded under the Medicaid program. Applicants for such services who are aggrieved by a department determination are not entitled to Medicaid Home and Community Based Services under this rule.
- (3) If a claimant requests a hearing within the period between the date of the notice and the date of the adverse action and the claimant is receiving benefits at that time, at the request of the claimant benefits shall be continued until the earlier of the expiration of the current eligibility or authorization period or issuance of a hearing decision except as provided in (7) and (8) of this rule.
- (4) If the claimant establishes that his failure to request a hearing within the notice period was for good cause the department shall at the request of the claimant, reinstate the benefits to their prior level until the earlier of the expiration of the current eligibility or authorization period or issuance of a hearing decision, except as provided in (6) and (7) of this rule.
- (5) If an action is taken without timely notice and the claimant requests a hearing within ten days of the mailing of the notice of the action, at the request of the claimant benefits shall be reinstated and continued until the earlier of the expiration of the current eligibility or authorization period or issuance of a hearing decision if the case is one in which the applicant is entitled to a hearing and the hearing is not subject to dismissal under ARM 37.5.313.
- (6) A claimant is not entitled to continued benefits if, after a hearing, the hearing officer makes a determination in writing that the sole issue is one of state or federal law or policy and no valid issue of improper benefit calculation, or misapplication or misinterpretation of state or federal law or policy exists.
- (7) Except as provided in (6), once continued or reinstated, benefits may not be reduced or terminated prior to a hearing decision unless:
 - (a) the eligibility, or authorization period expires, although the claimant may reapply and may be determined eligible for benefits;

- (b) a subsequent change affecting claimant's benefits occurs while the hearing is pending and a subsequent hearing is not requested after notice of adverse action resulting from the subsequent change; or
 - (c) a mass change affecting claimant's eligibility or benefit level occurs while the hearing decision is pending.
- (8) If a claimant requests a hearing on an adverse action concerning food stamp benefits and does not positively indicate whether continued benefits are requested, the department shall assume that continuation of benefits is desired and the benefits shall be issued on the same basis as authorized immediately prior to the notice of adverse action. If a recipient specifically waives continuation of food stamp benefits, the department shall terminate benefits pending a hearing decision in the contested case. This subsection applies only to food stamp benefits, and not to benefits of any other kind.
 - (9) Regardless of any other provision of this rule, a claimant is not entitled to continuation of benefits unless the decision at issue is a rescission by the department of a specific eligibility or authorization period previously granted by the department, such as eligibility for a specified time period or authorization for a particular service or quantity of services. A claimant is not entitled to a continuation of benefits where the department granted the benefit for a particular period of time or in a particular quantity and the contested action is the department's denial of an additional grant of benefits for an additional period of time or quantity of services.
 - (10) A claimant is not entitled to continuation of benefits when the issue is the lack of a negotiated FIA as specified at ARM 37.78.216(2).
 - (11) A claimant is not entitled to continuation of benefits for any month that TANF cash assistance benefits have been issued for a required filing unit member in another case or state.
 - (12) A claimant is not entitled to continuation of benefits if the department demonstrates at the hearing that continuation of benefits would pose a risk of harm to the claimant or another person.
 - (13) Benefits paid to a claimant pending a hearing decision are subject to recovery by the department if the adverse action is sustained.
 - (14) This rule shall not be construed to provide continuation of benefits with respect to an action taken by a provider rather than the department.
 - (15) This rule shall not be construed to prevent or delay a department action against a provider. If an adverse action is taken against a provider, payments may be withheld pending the final hearing decision.

Authorizing statute(s): 52-2-111, 53-2-201, 53-2-606, 53-2-803, 53-3-102, 53-4-111, 53-4-212, 53-6-111, 53-6-113, 53-7-102, MCA

Implementing statute(s): 52-2-112, 53-2-201, 53-2-306, 53-2-606, 53-2-801, 53-3-107, 53-4-112, 53-6-111, MCA

History: NEW, 1979 MAR p. 489, Eff. 5/25/79; AMD, 1979 MAR p. 812, Eff. 7/27/79; AMD, 1984 MAR p. 1633, Eff. 11/16/84; TRANS & AMD, from SRS, 2000 MAR p. 1653, Eff. 6/30/00; AMD, 2002 MAR p. 2921, Eff. 10/18/02.