



## ADMINISTRATIVE RULES OF MONTANA



### 37.5.304 DEFINITIONS

For purposes of this subchapter, unless the context requires otherwise, the following definitions apply:

- (1) "Adverse action" means:
  - (a) a failure of the department to provide a claimant an opportunity to make application or reapplication for benefits;
  - (b) a failure of the department to act with reasonable promptness on a claimant's application for benefits;
  - (c) an action by the department denying, suspending, reducing or terminating benefits of a claimant, or an action by the department demanding repayment of or to recover an overpayment of benefits to a claimant;
  - (d) an action by the department establishing conditions on the manner or form of benefits, including restrictive benefits or protective payments, or establishing conditions for the receipt of benefits, including a work requirement;
  - (e) an action by the department to deny, terminate, or fail to renew certification or a provider agreement for the Medicaid program to any nursing facility or intermediate care facility for the mentally retarded;
  - (f) an action by the department to deny, suspend, reduce, revoke, or terminate licensure, registration, certification, or enrollment of a provider or to fail to renew certification, enrollment, licensure, or the registration certificate of a provider who has applied for renewal;
  - (g) an action by the department establishing the rate of reimbursement for a provider or denying in whole or in part a provider's claim for services or items;
  - (h) an action by the department demanding repayment of or to recover an overpayment made to a provider, or to impose a penalty or sanction against a medical assistance provider under ARM Title 37, chapter 85, subchapter 5;
  - (i) a department determination of ability to pay for the cost of care in an institution under 53-1-405, MCA;
  - (j) a department determination that a Medicaid applicant or recipient is permanently institutionalized;
  - (k) a determination that the department intends to impose a lien upon the applicant's or recipient's real property pursuant to 53-6-171, MCA;

- (l) an action by the department denying or reducing a provider's quality incentive adjustment as provided in ARM 37.80.205;
  - (m) an action by the department denying or reducing a special needs adjustment as provided in ARM 37.80.205;
  - (n) a department's substantiation determination of a report of child abuse, neglect, or exploitation under ARM Title 37, chapter 47, subchapter 6;
  - (o) a determination by the department regarding a pharmaceutical manufacturer's rebate due under ARM Title 37, chapter 86, subchapter 11;
  - (p) a department determination denying, reducing, terminating, or failing to act upon a guardianship subsidy request within one year of the request as provided in ARM Title 37, chapter 50, subchapter 11;
  - (q) a department determination denying, reducing, terminating, or failing to act upon an adoption subsidy request within one year of the request as provided in ARM Title 37, chapter 50, subchapter 11;
  - (r) a department determination denying, reducing, terminating, or failing to act upon an application for a license to provide foster care or kinship care; or
  - (s) an action by the department to:
    - (i) deny, suspend or cancel a license for a swimming pool, spa, or other water feature;
    - (ii) issue an order immediately closing the swimming pool, spa, or other water feature; or
    - (iii) order corrective action to be taken at a swimming pool, spa, or other water feature.
- (2) "Authorized representative" means legal counsel, relative, friend or other spokesman specifically authorized by the claimant in writing or by law to represent the claimant in matters pertaining to the receipt of benefits from this department.
- (3) "Benefit" means any form of assistance provided by or through the department to an eligible recipient under the department's administrative rules.
- (4) "Board" means the Board of Public Assistance provided for in 2-15-2203, MCA.
- (5) "Claimant" means:
- (a) an applicant for or recipient of benefits from the department whether an individual or household and includes the claimant's authorized representative;
  - (b) a resident or financially responsible person as defined in 53-1-401, MCA;
  - (c) a medical assistance provider appealing an eligibility determination as a real party in interest;
  - (d) a subject of a substantiated report of child abuse or neglect; or
  - (e) any other person or entity as provided by department rule.
- (6) "Credible allegation of fraud" may be an allegation, which has been verified by the State, from any source. Allegations are considered to be credible when they have indicia of reliability and the state

Medicaid agency has reviewed all allegations, facts, and evidence carefully and acts judiciously on a case-by-case basis. Allegations may include, but are not limited to, the following:

- (a) fraud hotline complaints;
  - (b) claims data mining; or
  - (c) patterns identified through provider audits, civil false claims cases, and law enforcement investigations.
- (7) "Department" means the Department of Public Health and Human Services provided for in 2-15-2201, MCA.
  - (8) "He" and other words used in the masculine gender include the feminine and the neuter.
  - (9) "Hearing officer" means an individual hired or appointed by the department to conduct a hearing under the authority of the Montana Administrative Procedure Act and the department's rules.
  - (10) "Local office" means a county department, a regional office, a bureau if there is no regional office, or a division if there is neither a regional office nor a bureau.
  - (11) "Local supervisor" means a county director or his designee, a regional supervisor, a bureau chief if there is no regional supervisor, or a division administrator if there is neither a regional supervisor nor bureau chief.
  - (12) "Medical assistance provider" means any individual or organization providing services to eligible claimants under the Montana Medicaid program established under Title 53, chapter 6, MCA.
  - (13) "Provider" means an individual or organization licensed, enrolled or registered by the department or authorized by the department to provide services to a person eligible for benefits, except the term does not include contractors. For purposes of this subchapter, "provider" includes:
    - (a) any individual or organization seeking to obtain or retain any license, enrollment or certification required to provide services to eligible persons or the general public;
    - (b) a medical assistance provider;
    - (c) any individual or organization that is not a claimant; or
    - (d) any other person or entity as provided by department rule.

**Authorizing statute(s):** 41-3-208, 50-53-103, 52-2-111, 52-2-622, 52-2-704, 53-2-201, 53-2-606, 53-4-212, 53-6-111, 53-6-113, 53-7-102, 53-20-305, MCA

**Implementing statute(s):** 41-3-202, 41-3-208, 50-53-101, 50-53-102, 50-53-103, 50-53-104, 50-53-106, 50-53-107, 52-2-603, 52-2-704, 52-2-726, 53-2-201, 53-2-606, 53-6-101, 53-6-107, 53-6-111, 53-6-113, 53-20-305, MCA

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**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; AMD, 1985 MAR p. 943, Eff. 7/12/85; AMD, 1992 MAR p. 1496, Eff. 7/17/92; AMD, 1993 MAR p. 3069, Eff. 1/1/94; AMD, 1994 MAR p. 1744, Eff. 7/1/94; AMD, 1997 MAR p. 548, Eff. 3/25/97; AMD, 1999 MAR

p. 1301, Eff. 7/1/99; TRANS & AMD, from SRS, 2000 MAR p. 1653, Eff. 6/30/00; AMD, 2002 MAR p. 1553, Eff. 5/31/02; AMD, 2004 MAR p. 2409, Eff. 10/8/04; AMD, 2008 MAR p. 2669, Eff. 1/1/09; AMD, 2010 MAR p. 80, Eff. 1/15/10; AMD, 2011 MAR p. 2823, Eff. 12/23/11; AMD, 2014 MAR p. 976, Eff. 5/9/14; AMD, 2015 MAR p. 306, Eff. 3/27/15.