



ADMINISTRATIVE RULES OF MONTANA

37.86.1103 OUTPATIENT DRUGS, FRAUD, WASTE, AND ABUSE

- (1) Medicaid, Healthy Montana Kids, and Mental Health Services Plan members may be subject to investigation for prescription fraud and abuse in accordance with 42 CFR 455.
- (2) "Fraud" means the intentional deception or misrepresentation with knowledge that the deception could result in some unauthorized benefit to the individual or some other person. Examples include:
 - (a) doctor shopping;
 - (b) reported cash payment for drugs of abuse where it is suspected that the member has circumvented the Medicaid benefit system to avoid detection; and
 - (c) reports from providers of suspected drug misuse or diversion.
- (3) "Abuse" means the misuse of the prescription drug program resulting in undue expenditures or substance abuse. Examples include:
 - (a) high utilization;
 - (b) multiple provider usages that result in the receipt of unnecessary services;
 - (c) seeking of medical services that are not medically necessary;
 - (d) repeated use of emergency rooms or urgent care clinics; and
 - (e) unwarranted multiple pharmacy usage.
- (4) "Drug not covered" means that a member is unable to receive a selected medication or class of medication unless a prior authorization is granted.
- (5) "Opioid naïve member" means a member has not received a prescription for an opioid within the last 90 days.
- (6) Pharmacy providers may notify the department when Medicaid members pay cash for controlled substances (CII-CV), ultram (tramadol), ultracet (tramadol and acetaminophen), carisoprodol, and gabapentin.
- (7) Prescriptions for noncontrolled substances may be refilled after 75% of the estimated therapy days have elapsed. Prescriptions for controlled substances (CII-CV), ultram (tramadol), ultracet (tramadol and acetaminophen), carisoprodol, and gabapentin may be refilled after 90% of the estimated therapy days have elapsed. Members who have a "drug not covered" in place may be required to have 100% of the estimated therapy days elapse prior to a refill being authorized.

- (8) As stated in ARM 37.86.1102, the department does not authorize payment for medications dispensed in quantities greater than a 34-day supply excluding maintenance medications and where manufacturer packaging precludes the 34-day supply limit. Authorization for early refills, lost or stolen medication, or vacation supplies will not be granted.
- (9) Except as provided in (10), for an opioid-naïve member, the department does not authorize payment for opioid medications in quantities greater than a 7-day supply.
- (10) The restriction imposed under (9) does not apply if the opioid is prescribed to treat:
 - (a) chronic pain, pain associated with cancer, or pain experienced while the patient is in palliative care; or
 - (b) opioid abuse or dependence, including but not limited to opioid agonists and opioid antagonists.
- (11) The use of tamper-resistant pads for written prescriptions is required. The department follows ARM 24.174.831 established by the Montana Board of Pharmacy to define tamper-resistant prescriptions.
- (12) As stated in ARM 37.86.1102, the department may impose prescription limitations and requirements due to inappropriate use of drugs, as determined by professional review. These limitations or requirements may include:
 - (a) random drug screening;
 - (b) random pill counts;
 - (c) implementation of a treatment contract with one prescribing physician;
 - (d) restrictions through "Drug Not Covered";
 - (e) member requirement to have utilized 100 percent of the estimated therapy days prior to granting a prescription authorization; or
 - (f) member referral to the team care program, as outlined in ARM 37.86.5303.

Authorizing statute(s): 53-2-201, 53-6-113, MCA

Implementing statute(s): 53-2-201, 53-6-101, 53-6-111, MCA

History: NEW, 2014 MAR p. 1405, Eff. 7/1/14; AMD, 2014 MAR p. 3094, Eff. 1/1/15; AMD, 2018 MAR p. 1607, Eff. 8/11/18, AMD, 2019 MAR p. 1637, Eff. 9/21/19.