



ADMINISTRATIVE RULES OF MONTANA



37.34.2003 DISCONTINUATION BY PROVIDER OF SERVICE DELIVERY: PROVIDER INITIATED

- (1) When a person receiving developmental disability community services from a service provider refuses to cooperate in service delivery as provided for in their plan of care or otherwise fails to substantively engage in their plan of care or when, following good faith efforts, the person's health and safety needs cannot be met by the provider, the provider may follow the process provided in these rules to be relieved of service delivery responsibilities for the person. The provider will continue to provide services to ensure the persons' health and safety during the course of the process provided for in this rule.
- (2) The provider who wishes to discontinue the services must provide notice of the provider's intent to discontinue services in writing and submit the notice to:
 - (a) the regional manager or designee of the developmental disabilities program (DDP) of the region in which the person resides;
 - (b) the person with a developmental disability;
 - (c) the case manager for the person;
 - (d) the legal representative for the person, if applicable;
 - (e) the advocate for the person, if applicable; and
 - (f) the designee at the state facility, if applicable.
- (3) The statement of intent to discontinue services must include:
 - (a) the issues that the provider contends cause the need to discontinue the services; and
 - (b) thorough documentation of the past and current efforts made by the provider and others to provide the services to the person.
- (4) The regional manager or designee will schedule a meeting within two working days after the receipt of the notice of intent to discontinue services from the provider. The meeting will include the regional manager or the regional manager's designee, the members of the person's plan of care team, the provider, and if applicable, a designee from the state facility. The meeting may be conducted telephonically. If the person's legal representative is not available within two working days, the meeting must be scheduled at the earliest possible time the legal representative is available. If the person or a legal representative is unable to participate in the plan of care meeting, the case manager must document the reasons for the absence and the attempts made to reschedule the meeting with the person or the person's legal representative.
- (5) The purpose of the meeting is to review the basis for the notice and determine if a change in the configuration of the current services or additional supports may assist the person to remain in or

return to services with the current provider and, if so, identify those services or supports. If the planning team determines additional services or supports may assist the person to remain with the current provider, the planning team must develop a supplemental plan of care which identifies the actions to implement the determination for the person's services.

- (6) The department reviews the supplemental plan of care developed by the planning team to assess the feasibility of the plan and to suggest further changes if desired. If the plan provides for the delivery of additional services or for interim supports to the person at an additional cost, the department must approve those through an adjustment to the person's individual cost plan.
- (7) If the planning team cannot reach consensus on the implementation of a supplemental plan of care, the person(s) who does not agree may submit their disagreement along with the justification for their disagreement to the DDP program director or designee. The DDP program director or designee must:
 - (a) make a determination within three working days; and
 - (b) provide the determination in writing to the members of the planning team.
- (8) If a person who is the subject of a discontinuation of services process is admitted to Montana Developmental Center, Montana State Hospital, a hospital, or to any other facility, the person's ongoing discontinuation of services process and all applicable dates are suspended until the person returns to the community service unless the department determines that the person's admission is on a long-term basis. Admission to a facility is inclusive of commitment, emergency detention, emergency admission, court-ordered precommitment detention, voluntary admission, or any other process resulting in a person being placed in a facility.
- (9) If it is determined in the course of planning that an alternative provider is needed, the case manager will assist the person, the legal representative, or both in seeking an alternative provider. The case manager will place the person on the port list. If additional funding is required, the case manager will also place the person on the waiting list for screening into an opening with sufficient funding.
- (10) A provider must, in good faith, participate in the implementation of a supplemental plan of care.
- (11) The regional manager or designee will schedule a meeting between 15 to 30 calendar days prior to the expiration of the 90 calendar days to review the outcome of the supplemental plan of care. The meeting will include the regional manager or the regional manager's designee, the members of the person's plan of care team, the provider, and, if applicable, a designee from the state facility. The meeting may be conducted telephonically. If the person's legal representative is not available within two working days, the meeting must be scheduled at the earliest possible time the legal representative is available. If the person or a legal representative is unable to participate in the plan of care meeting, the case manager must document the reasons for the absence and the attempts made to schedule the meeting with the person or the person's legal representative.
- (12) At the expiration of 90 calendar days following the receipt by the department of a proper notice of intent to discontinue services from a provider, the provider may proceed with the discontinuation of services for the person, if the provider, as determined by the department and the planning team, has participated in good faith in a supplemental plan of care if applicable, and the basis for the discontinuation action remains.
- (13) A provider must abide by applicable statutes or regulations of the state of Montana regarding the relationship between the provider as the landlord and the person as the tenant.

- (14) The person or the person's legal representative maintains their right to a fair hearing as provided for in ARM 37.5.115.

Authorizing statute(s): 53-6-402, 53-20-204, MCA

Implementing statute(s): 53-6-402, 53-20-205, MCA

History: NEW, 2012 MAR p. 2622, Eff. 12/21/12; AMD, 2013 MAR p. 1099, Eff. 6/21/13.