



ADMINISTRATIVE RULES OF MONTANA

37.84.120 HELP ACT: COMMUNITY ENGAGEMENT ACTIVITY PARTICIPATION: STANDARD EXEMPTIONS

- (1) A participant is exempt from the community engagement activity participation requirements if the participant is:
 - (a) medically frail consistent with 42 C.F.R. 440.315.
 - (i) The department shall review healthcare claims on a monthly basis for receipt of services including, but not limited to, a personal care service or a diagnosis of severe and disabling mental or physical illness to identify an exemption under this subsection.
 - (ii) If the department is unable to verify a medical frailty exemption through a data review, a participant may provide a certification to meet an exemption under this subsection.
 - (b) blind or disabled.
 - (i) A blind or disabled individual shall include:
 - (A) Social Security Disability Insurance recipients;
 - (B) individuals who, as defined under the Americans with Disability Act, Section 50 or Section 1557, are unable to comply with the community engagement requirements due to disability-related reasons; or
 - (C) recipients of a state or federal benefit program due to a disability.
 - (ii) The department shall review available data sources on a monthly basis to identify an exemption under this subsection.
 - (iii) If the department is unable to verify a blind or disabled exemption through a data review, a participant may provide documentation to meet an exemption under this subsection.
 - (c) pregnant or up to six months post-partum.
 - (i) The department shall review healthcare claims on a monthly basis to identify an exemption under this subsection.
 - (ii) If the department is unable to verify pregnancy or up to six months post-partum through a data review, a participant may provide documentation or a certification to meet an exemption under this subsection.
 - (d) experiencing an acute medical condition.

- (i) A participant who experiences a medical condition that requires medical treatment or that temporarily impacts activities of daily living shall meet an exemption under this subsection.
 - (ii) A participant shall provide documentation from a registered or licensed provider to meet an exemption under this subsection.
- (e) unable to work due to a mental or physical condition.
 - (i) A participant shall provide documentation to meet an exemption under this subsection. Documentation may include:
 - (A) temporary or permanent disability benefits issued by governmental or private sources; or
 - (B) a statement provided by a physician, licensed or certified psychologist, physician assistant, nurse, nurse practitioner, designated representative of the physician's office, licensed or certified psychologist, social worker, or any other medical personnel.
- (f) a primary caregiver of a person who is unable to provide self-care which shall include a child under the age of 19 residing in the household or an individual who is unable to provide self-care, regardless of age.
 - (i) A participant may provide a certification to meet an exemption under this subsection.
 - (ii) Only one participant may be deemed the primary caregiver for an individual.
- (g) a foster care or kinship care provider.
 - (i) The department shall review available electronic records on a monthly basis to identify an exemption under this subsection.
 - (ii) If the department is unable to verify if a participant is a foster care or kinship care provider through a data review, a participant may provide documentation or a certification to meet an exemption under this subsection.
- (h) Engaged in secondary, postsecondary, or vocational education.
 - (i) A participant in high school shall satisfy the requirements of this exemption.
 - (ii) A participant enrolled in the equivalent of at least six credits of community college or pursuing an associate degree, four-year undergraduate program, or post-graduate masters or doctoral program shall satisfy the requirements of this exemption.
 - (iii) A participant enrolled in the equivalent of at least six credits in a trade school, college, or career center program that provides specialized skills training shall satisfy the requirements of this exemption.
 - (iv) The department shall review available electronic records on a monthly basis to identify an exemption under this subsection.
 - (v) If the department is unable to verify if a participant is engaged in secondary, postsecondary, or vocational education through a data review, a participant may provide documentation to meet an exemption under this subsection.

- (vi) A participant satisfies this exemption if they are participating in-person or virtually and such participation may be inside or outside of the State of Montana.
- (i) Participating in or exempt from the work requirements of the Temporary Assistance for Needy Families or Supplemental Nutrition Assistance Program.
 - (i) The department shall review available electronic records on a monthly basis to identify an exemption under this subsection.
 - (ii) If the department is unable to verify if a participant is exempt from or compliant with Temporary Assistance for Needy Families or Supplemental Nutrition Assistance Program work requirements through a data review, a participant may provide documentation to meet an exemption under this subsection.
- (j) Under the supervision of the Department of Corrections, a county jail, or another entity as directed by the court, the Department of Corrections, or the Board of Pardons and Parole.
 - (i) The department shall review available electronic records on a monthly basis to identify an exemption under this subsection.
 - (ii) If the department is unable to verify if a participant is under the supervision of the Department of Corrections, a county jail, or another entity as directed by the court, a participant may provide documentation to meet an exemption under this subsection.
- (k) Experiencing chronic homelessness.
 - (i) Experiencing chronic homelessness includes a participant who:
 - (A) lacks a fixed and regular nighttime residence;
 - (B) primarily resides at nighttime in a supervised shelter designed to provide temporary accommodations;
 - (C) resides for no more than 90 days in the residence of another individual; or
 - (D) resides in a location that is not designed for, or ordinarily used to, accommodating individuals for sleep, home, or meals, including but not limited to hallways, bus station, or lobbies.
 - (I) The department shall review available data on a monthly basis to identify an exemption under this subsection.
 - (II) If the department is unable to verify if a participant is chronically homeless through a data review, the participant may provide a certification to meet an exemption under this subsection.
- (l) A victim of domestic violence as defined by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 601, et seq.
 - (i) A victim of domestic violence shall include a participant who is a victim of physical, sexual, financial, mental, or emotional abuse by a person with whom the individual lives or has lived with in the last 24 months;
 - (ii) A participant may provide a certification to meet an exemption under this subsection.
- (m) Living in an area with a high poverty designation which shall include a participant residing in a zip code area in Montana with a poverty rate greater than the U.S. poverty rate, for

individuals in the age range of 18 to 64 years, as determined by the U.S. Census Bureau, estimated for the most current year available.

- (i) The department shall review available data to identify an exemption under this subsection.
- (ii) If the department is unable to verify if a participant is living in an area with a high poverty designation through a data review, the participant may provide documentation or certification to meet an exemption under this subsection.
- (n) A member of an entity organized under 26 U.S.C. 501(d). A participant shall provide a certification to meet an exemption under this subsection.
- (o) An American Indian or Alaska Native.
 - (i) The department shall review available data on a monthly basis to identify an exemption under this subsection.
 - (ii) If the department is unable to verify if a participant is a member of a federally recognized tribe through a data review, the participant may provide a certification to meet an exemption under this subsection.
- (p) Otherwise exempt under federal law.
- (2) The department shall implement and enforce this rule only upon receiving approval from the U.S. Secretary of Health and Human Services of the department's 1115 waiver application filed August 30, 2019, and in accordance with the terms and conditions of the approval.

Authorizing statute(s): 53-2-215, 53-6-113, 53-6-1309, 53-6-1318, MCA

Implementing statute(s): 53-2-215, 53-6-101, 53-6-113, 53-6-1302, 53-6-1303, 53-6-1304, 53-6-1305, 53-6-1308, 53-6-1309, MCA

History: NEW, 2020 MAR p. 2438, Eff. 1/1/21.