



ADMINISTRATIVE RULES OF MONTANA

37.40.1435 HOME AND COMMUNITY-BASED SERVICES FOR ELDERLY AND PHYSICALLY DISABLED PERSONS: ADULT RESIDENTIAL CARE, REQUIREMENTS

- (1) Adult residential care services consist of the following categories: level 1 services, level 2 services, level 3 services, and group home services.
- (2) Level 1 services are available in licensed adult foster care homes and licensed assisted living categories A, B, and C.
- (3) Level 2 services are available in assisted living categories A, B, and C. Level 2 services consist of behavior management support services and include an enhanced rate to reimburse facilities for added supports for members who have disruptive behaviors associated with a medical diagnosis that occur four or more times per week.
 - (a) The following requirements apply to level 2 services:
 - (i) the services must be pre-authorized by the department;
 - (ii) the member must have received level 1 services for at least the past 30 days;
 - (iii) the facility must submit to the department a member-focused summary outlining the proposed plan of care to which the services will be applied;
 - (iv) the facility must provide documentation of past attempts to remedy the member's disruptive behavior that includes, at a minimum, the member's assisted living service plan, progress notes, charting, and any other applicable/relevant medical records;
 - (v) all staff providing direct services to members receiving level 2 services must receive eight hours of mandatory training annually that is specific to the needs and diagnosis of the member receiving support. Trainings must be documented, and training records must be available for inspection by the department upon request; and
 - (vi) all staff providing direct services to members receiving level 2 services must also receive eight hours of mandatory training annually, in the areas of traumatic brain injury, spectrum disorders, substance abuse, dementia/Alzheimer's, and other conditions which may be associated with behavioral issues. Trainings must be documented, and training records must be available for inspection by the department upon request.
 - (b) Level 2 services may be approved on a temporary or long-term basis depending on the individual member's circumstances and/or actual outcomes.

- (c) Assisted living facilities providing specialized adult residential services and group homes are not eligible for the level 2 enhanced rate as reimbursement for behavioral support services is covered under the level 3 and group home rates.
- (4) Level 3 services are specialized adult residential care services provided in licensed assisted living categories A, B, and C facilities that specialize in the care of individuals with brain injuries or other severe physical disabilities.
- (5) Group home adult residential care services are provided in licensed community homes for persons with physical disabilities.
- (6) Adult residential care services provided in a category B or C assisted living facility must be pre-authorized by the department.
- (7) Adult residential care services must be provided using a person-centered planning process in accordance with 42 CFR 441.725, as amended May 10, 2024, which the department adopts and incorporates by reference. A copy of this federal regulation may be obtained from the Department of Public Health and Human Services, Senior and Long Term Care Division, 1100 N. Last Chance Gulch, P.O. Box 4210, Helena, MT 59604-4210 or by visiting <https://www.ecfr.gov/>.
- (8) Adult residential care is a bundled service that includes:
 - (a) personal care services;
 - (b) homemaking;
 - (c) social activities;
 - (d) recreational activities;
 - (e) medication monitoring and management; and
 - (f) assistance in arranging for medical and non-medical transportation.
- (9) Adult residential care must provide for 24-hour onsite response staff to meet members' scheduled and unscheduled needs.
- (10) A recipient of adult residential care may not receive the following services through the program:
 - (a) personal assistance as specified at ARM 37.40.1447;
 - (b) homemaking services as specified at ARM 37.40.1450;
 - (c) environmental accessibility adaptation services as specified at ARM 37.40.1485;
 - (d) respite care as specified at ARM 37.40.1451; and
 - (e) nutrition as specified in ARM 37.40.1476.
- (11) Adult residential care facilities must be licensed by the state of Montana.
- (12) A provider of adult residential care must report serious occurrences to the department in accordance with serious occurrence policy requirements.
- (13) Provider owned or leased settings where Home and Community-Based services are furnished must be compliant with the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.
- (14) The department may authorize retainer payments, billed at the facility provider rate when the member is absent from an adult residential care facility due to hospitalization, admission to a

nursing facility, or vacation (absence from services), for a period not exceeding 30 days per service plan year subject to the following conditions:

- (a) The facility may not bill Medicaid for services on days the member is absent from the facility unless retainer-day payments have been pre-authorized by the resident's case management team.
- (b) The facility may bill for the date of admission to and discharge from a hospital or nursing facility.
- (c) If the member is transferring from one residential care setting to another, the discharging facility may not bill for the day of transfer.
- (d) Retainer payments may not be used while a member resides in the Montana State Hospital.

Authorizing statute(s): 53-2-201, 53-6-113, 53-6-402, MCA

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

History: NEW, 2000 MAR p. 2023, Eff. 7/28/00; AMD, 2011 MAR p. 1722, Eff. 8/26/11; AMD, 2024 MAR p. 2273, Eff. 9/21/24.