

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.29.1611 and 24.29.1616) PROPOSED AMENDMENT
pertaining to utilization and treatment)
guidelines and the drug formulary for)
workers' compensation purposes)

TO: All Concerned Persons

1. On May 18, 2023, at 11:00 a.m., a public hearing will be held via remote conferencing to consider the proposed changes to the above-stated rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

a. Join Zoom Meeting, <https://mt-gov.zoom.us/j/86479002154>
Meeting ID: 864 7900 2154, Passcode: 837520

-OR-

b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 864 7900 2154, Passcode: 837520

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., on May 11, 2023, to advise us of the nature of the accommodation that you need. Please contact the department at P.O. Box 1728, Helena, Montana 59624-1728; telephone (406) 444-5466; Montana Relay 711; or e-mail laborlegal@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

24.29.1611 UTILIZATION AND TREATMENT GUIDELINES (1) The department adopts the utilization and treatment guidelines provided by this rule to set forth the level and type of care for primary and secondary medical services. As provided by 39-71-704, MCA, there is a rebuttable presumption that the Montana Guidelines establish compensable medical treatment for primary and secondary medical services for the injured worker. The applicable utilization and treatment guidelines are available electronically at the web site: <http://www.mtguidelines.com>; or a printed copy may be obtained for the cost of reproduction from the Employment Relations Division, Department of Labor and Industry, P.O. Box 8011, Helena, MT 59601-8011. The Montana Guidelines incorporated by reference apply as follows:
~~(a) for medical services provided from July 1, 2011 through June 30, 2014:~~
~~"Montana Utilization and Treatment Guidelines, 1st edition, 2011";~~
~~(b) for medical services provided July 1, 2014 through June 30, 2015:~~
~~"Montana Utilization and Treatment Guidelines, 2nd edition, 2014";~~

~~(c) for medical services provided July 1, 2015 through December 31, 2016: "Montana Utilization and Treatment Guidelines, 3rd edition, 2015";~~

~~(d) for medical services provided January 1, 2017 through December 31, 2017: "Montana Utilization and Treatment Guidelines, 4th edition, 2016";~~

~~(e) for medical services provided January 1, 2018 through June 30, 2019: "Montana Utilization and Treatment Guidelines, 5th edition, 2017";~~

~~(f) for medical services provided July 1, 2019 through June 30, 2021: "Montana Utilization and Treatment Guidelines, 6th edition, 2019"; and~~

~~(g) for medical services provided on or after July 1, 2021: "Montana Utilization and Treatment Guidelines, 7th edition, 2021."~~

(a) for medical services provided on or after July 1, 2023: "Montana Utilization and Treatment Guidelines, 8th edition, 2023"; and

(b) all prior Utilization and Treatment Guidelines starting July 1, 2011, are available on the department's website or by contacting the department to request a copy.

(2) through (7) remain the same.

AUTH: 39-71-203, 39-71-704, MCA

IMP: 39-71-704, MCA

REASON: There is reasonable necessity to amend ARM 24.29.1611 to update the medical guidelines for utilization and treatment for workers' compensation purposes. The department simplified the rule by removing specific references to historical treatment guidelines and clarifying that historical treatment guidelines can be accessed online or by contacting the department.

24.29.1616 INCORPORATION BY REFERENCE AND UPDATES TO THE FORMULARY (1) remains the same.

(2) The department adopts and incorporates by reference its formulary as follows:

~~(a) for prescriptions written between January 1, 2019 through December 31, 2019, the October 2018 edition of the ODG Drug Formulary;~~

~~(b) for prescriptions written between January 1, 2020 through December 31, 2020, the October 2019 edition of the ODG Drug Formulary;~~

~~(c) for prescriptions written between January 1, 2021 through June 30, 2021, the October 2020 edition of the ODG Drug Formulary;~~

~~(d) for prescriptions written between July 1, 2021 through June 30, 2022, the April 2021 edition of the ODG Drug Formulary.; and~~

~~(e) for prescriptions written on or after July 1, 2022, the April 2022 edition of the ODG Drug Formulary.~~

(a) for prescriptions written on or after July 1, 2023, the April 2023 edition of the ODG Drug Formulary; and

(b) all prior ODG drug formulary lists starting January 2019, are available on the department's website or by contacting the department to request a copy.

(3) through (5) remain the same.

AUTH: 39-71-203, 39-71-704, MCA

IMP: 39-71-704, MCA

REASON: There is reasonable necessity to amend this rule to incorporate by reference the updated applicable drug formulary as authorized and required by 39-71-704, MCA. The department simplified the rule by removing specific references to historical drug formularies and clarifying that historical drug formularies can be accessed online or by contacting the department.

4. Concerned persons may present their data, views, or arguments at the hearing. Written data, views, or arguments may also be submitted at dli.mt.gov/rules or P.O. Box 1728; Helena, Montana 59624. Comments must be received no later than 5:00 p.m., May 26, 2023.

5. An electronic copy of this notice of public hearing is available at dli.mt.gov/rules and sosmt.gov/ARM/register.

6. The agency maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the agency. Persons wishing to have their name added to the list may sign up at dli.mt.gov/rules or by sending a letter to P.O. Box 1728; Helena, Montana 59624 and indicating the program or programs about which they wish to receive notices.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. Pursuant to 2-4-111, MCA, the agency has determined that the rule changes proposed in this notice will not have a significant and direct impact upon small businesses.

9. Department staff has been designated to preside over and conduct this hearing.

/s/ QUINLAN L. O'CONNOR
Quinlan L. O'Connor
Rule Reviewer

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State April 18, 2023.