MONTANA
ADMINISTRATIVE
REGISTER

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

NOTICE OF PROPOSED RULEMAKING

MAR NOTICE NO. 2026-48.1

Summary

Amendment of ARM 37.106.1936 pertaining to child and adolescent day treatment

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Hearing Date and Time

Friday, August 28, 2026, at 9:30 a.m.

Virtual Hearing Information

Join Zoom Meeting

https://mt-gov.zoom.us/j/83621885802?pwd=vCaOVMDtoGDZsAWI4e7BtB81LRJZBb.1

Meeting ID: 836 2188 5802 Password: 731589

Dial by Telephone +1 646 558 8656

Meeting ID: 836 2188 5802 Password: 731589

Find your local number: https://mt-gov.zoom.us/u/kmpXWDNGu

Join by SIP 83621885802@zoomcrc.com

Join by H.323 (Polycom) 162.255.37.11##83621885802

Comments

Comments may be submitted using the contact information below. Comments must be received by Friday, September 4, 2026, at 5:00 p.m.

Accommodations

The agency will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. Requests must be made by Friday, August 14, 2026, at 5:00 p.m.

Contact

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Rulemaking Actions

AMEND

The rule proposed to be amended is as follows, stricken matter interlined, new matter underlined:

37.106.1936 MENTAL HEALTH CENTER: CHILD AND ADOLESCENT DAY TREATMENT

(1) In addition to the requirements established in this subchapter, each mental health center providing a child and adolescent day treatment program shall comply with the requirements established in this rule.

(2) The Child and Adolescent Day Treatment program must be site based and occur in a location separate from the child and adolescent's regular classroom. Appropriate, supplemental day treatment services may be delivered off site. The program shall:

(a) operate at least five days per week for at least three hours per day, unless school holidays preclude day treatment activities. Preschool day treatment programs shall operate at least three days a week, three hours a day, unless school holidays preclude day treatment activities;

(b) employ or contract with a program supervisor who is knowledgeable about the service and support needs of children and adolescents with serious emotional disturbances. The program therapist or program supervisor must be site based;

(c) establish admission criteria which assess the child or adolescent's needs and the appropriateness of the services to meet those needs. Students still in school, 18 years of age or older, remain eligible for the program;

(d) provide mental health services according to the individualized treatment plan which may include individual therapy, family and group therapy, social skills training, life skills training, pre-vocational training, therapeutic recreation services and ensure access to emergency services;

(e) coordinate its services with educational services provided through full collaboration with a school district recognized by the office of public instruction;

(f) provide referral and aftercare coordination with inpatient facilities, residential treatment programs, or other appropriate out-of-home placement programs;

(g) establish policies and procedures regarding the use of time-out and seclusion. Time-out and seclusion may not be used with a locked door. Mechanical restraints may not be used. If time-out is used, intermittent to continuous staff observation is required, as clinically indicated. If seclusion is used, continuous staff observation is required. Written permission from the parent or legal guardian must be obtained for the use of non-aversive and aversive interventions and must be placed in the client's clinical record. The clinical record must include signed orders by a licensed mental health professional for use of seclusion, a detailed description of the circumstances warranting such action, and the date, time and duration of the seclusion;

(h) require and ensure that the program supervisor and all staff shall each have a minimum of six contact hours of annual training relating to child and adolescent mental illnesses and treatment; and

(i) maintain progress notes for each client. The progress notes must be entered into the client's clinical record at least every 30 days and upon the occurrence of any significant change in the client's condition.

(3) The day treatment staff shall attend all child study team (CST) meetings and individual education planning meetings when clinically indicated and permission has been granted by the parent or legal guardian or child, when age appropriate. If the client requires an individualized education program (IEP), a copy of the IEP must be included in the client's treatment plan unless the parent or legal guardian or child, when age appropriate, refuses to authorize release to the mental health center.

(4) The program supervisor and day treatment program staff must be trained in the therapeutic de-escalation of crisis situations to ensure the protection and safety of the clients and staff. The training must include the use of physical and non-physical methods of managing children and adolescents and must be updated, at least annually, to ensure that necessary skills are maintained.

(5) Each full-time program therapist or in-training mental health professional in the program shall carry an active caseload not to exceed 12 day-treatment clients. The therapist or mental health professional ~~who carries the~~ assigned to the caseload must ~~also~~ provide the therapy services and ~~must~~ be on-site ~~during~~ throughout the ~~entire~~ day treatment operation hours. The only exception is when the therapist is attending an off-site meeting related to a day-treatment client. Additional part-time therapists are allowed but cannot be used in place of full-time therapists. Part-time therapists must be on-site for at least 20 hours per week, provide therapy, and be involved in the development of treatment plans, interventions, and treatment team meetings ~~of operation unless the therapist is attending a meeting offsite that pertains to one of the day-treatment client's treatment~~. The program supervisor, part-time therapist, or part-time in-training mental health professional may carry a caseload of up to six day-treatment clients.

(6) There must be at least one full-time equivalent (FTE) clinical or mental health staff member for every six clients in the program. ~~Support staff means an adult, under the supervision of the program supervisor or therapist, with experience in working with children and adolescents with severe emotional disturbances. For the purpose of this ratio, the number of participants in the program must be based on the average daily attendance. This ratio includes the site based therapist or program supervisor, if the therapist or supervisor spends at least half of the time with the class and is readily available at other times when the need arises. The program therapist's office must be in close proximity to the day treatment classroom to provide timely interventions to clients. Mental health staff must not be shared with other programs. Either the mental health support staff member, the therapist or the supervisor must be in the classroom at all times during operation of the program.~~

(a) For the purpose of this ratio, the number of participants in the program must be based on the average daily attendance. This ratio includes the site based therapist or program supervisor, if the therapist or supervisor spends at least half of the time with the class and is readily available at other times when the need arises.

(b) The program therapist's office must be in close proximity to the day treatment classroom to provide timely interventions to clients.

(c) Mental health staff must not be shared with other programs.

(d) Either the mental health support staff member, the therapist or the supervisor must be in the classroom at all times during operation of the program.

(i) Support staff means an adult, under the supervision of the program supervisor or therapist, with experience in working with children and adolescents with severe emotional disturbances.

Authorizing statute(s): 50-5-103, MCA

Implementing statute(s): 50-5-103, 50-5-204, MCA

General Reasonable Necessity Statement

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.106.1936.

The department proposes to allow for part-time therapists to be utilized for Child and Adolescent Day Treatment programs under Mental Health Center licensing. The existing rule does not clearly distinguish between full-time and part-time clinical staff, nor does it specify how part-time therapists may be used, thereby creating inconsistent implementation across providers and disparate access to services for children and adolescents.

Additionally, this rule amendment is necessary to ensure that Mental Health Centers that offer these services can serve more youth and adolescents than they already do while maintaining adequate and effective care. Allowing part-time therapists to provide services to youth and adolescents helps providers continue serving when client numbers exceed the caseload limit for a full-time therapist (12), but not enough to warrant adding another full-time therapist.

For these reasons, the department finds the amendments reasonably necessary to ensure clarity, consistency, and the continued integrity of Child and Adolescent Day Treatment services in Montana.

Small Business Impact

Pursuant to 2-4-111, MCA, the agency has determined there is no class or group of small businesses affected by the proposed rulemaking and that the proposed rule amendment will not have a significant and direct effect upon small businesses.

Bill Sponsor Notification

The bill sponsor contact requirements do not apply.

Interested Persons

The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the department. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be emailed, mailed or otherwise delivered to the contact person above.

Rule Reviewer

Gregory Henderson

Approval

Charles T. Brereton, Director

Department of Public Health and Human Services