

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

CHAPTER 47

PROTECTIVE SERVICES

Subchapter 1

Adult Protective Services

Rule 37.47.101 Adult Protective Services: Purpose

37.47.102 Adult Protective Services: Definitions

Rules 03 through 05 reserved

37.47.106 Adult Protective Services: Available Services

37.47.107 Adult Protective Services: Eligibility

Rules 08 through 10 reserved

37.47.111 Adult Protective Services: Obtaining Services

Subchapter 2 reserved

Subchapter 3

Child Protective Services

Rule 37.47.301 Child Protective Services: Definitions

37.47.302 Centralized Intake Bureau

37.47.303 Child Abuse Hotline: Report and Screening of Information

37.47.304 Child Protective Services: Investigations Regarding Persons Present in Licensed or Registered Facilities or in Assistance of Law Enforcement

Rules 05 through 14 reserved

37.47.315 Child Protective Services: Information System Operation

Subchapters 4 and 5 reserved

Subchapter 6

Confidentiality of Case Records

Rule 37.47.601 Protective Services: Purpose

37.47.602 Protective Services: Definitions

Rules 03 through 06 reserved

37.47.607 Protective Services: Disclosure

37.47.608 Protective Services: Procedures

37.47.609 Protective Services: Request for Review and Amendment of the Record

37.47.610 Child Protective Services: Right to Fair Hearing to Contest Substantiated Reports

Rules 11 and 12 reserved

37.47.613 Child Protective Services: Listing of Determination in the Protection Information System

Rule 14 reserved

37.47.615 Child Protective Services: Exceptions to Right to Fair Hearing

Subchapters 7 and 8 reserved

Subchapter 9

Home Attendant Services

Rule 37.47.901 Home Attendant Services, Definition

Rules 02 and 03 reserved

37.47.904 Home Attendant Services, Eligibility

37.47.905 Home Attendant Services, Services Available

Rules 06 through 09 reserved

37.47.910 Termination of Home Attendant Services

Subchapter 10

Battered Spouses and Domestic Violence Program

Rule 37.47.1001 Definitions

Rules 02 through 04 reserved

37.47.1005 Department Administrative Policies and Responsibilities

Rules 06 and 07 reserved

37.47.1008 Awarding Grants, Criteria

Rules 09 through 14 reserved

37.47.1015 Grant Application, Eligibility Requirements

Rules 16 through 19 reserved

37.47.1020 Grant Application, General Requirements

37.47.1021 Grant Applications, Content Requirements

Subchapter 1

37.47.101 ADULT PROTECTIVE SERVICES: PURPOSE

(1) Adult protective services are services intended to prevent or remedy neglect, exploitation or abuse of aged persons or disabled adults who are unable to protect their own interests.

(History: Sec. 53-2-201, MCA; IMP, Sec. 53-5-205, MCA; NEW, 1978 MAR p. 206, Eff. 2/25/79; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 657.)

37.47.102 ADULT PROTECTIVE SERVICES: DEFINITIONS

As used in this subchapter, the following definitions apply:

(1) "Aged person" means a person 65 years of age or older.

(2) "Disabled adult" means a person of 18 through 65 years of age who is:

(a) determined to be disabled by the social security administration;

(b) determined fully disabled by the veterans' administration;

(c) determined disabled by the department's vocational rehabilitation division;

(d) adjudicated disabled by a court of competent jurisdiction; or

(e) determined eligible for the medically needy program because of disability;

(f) does not include the developmentally disabled as defined in 53-20-102, MCA.

(3) "Protective services" means services directed at preventing or remedying neglect, abuse, or exploitation of aged or disabled adults.

(4) "Voluntary services" means protective services requested or accepted by an aged person or disabled adult.

(5) "Non-voluntary services" means protective services provided under court-ordered legal guardianship to a ward who is aged or disabled.

(6) "Ward" means an incapacitated person for whom a guardian has been appointed by a court of competent jurisdiction.

(7) "Department" means the department of public health and human services.

(History: Sec. 53-2-201, MCA; IMP, Sec. 53-5-205, MCA; NEW, 1978 MAR p. 206, Eff. 2/25/78; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 657.)

Rules 03 through 05 reserved

37.47.106 ADULT PROTECTIVE SERVICES: AVAILABLE SERVICES

(1) Voluntary services include, but are not limited to:

- (a) identifying persons needing protective services through referrals;
- (b) investigating referrals and diagnosing problems to determine extent and type of services needed;
- (c) counseling for the individual and family;
- (d) arranging or facilitating appropriate alternative living arrangements or protective placements;
- (e) enlisting support and services from interested persons or agencies;
- (f) assisting in arrangement of health related services;
- (g) assisting in locating legal services;
- (h) providing advocacy; or
- (i) assisting in arranging services to preserve or enhance the current living arrangement when desirable in the best interest of the aged person or disabled adult.

(2) Non-voluntary services may include any voluntary service under (1) above, and any other services ordered by the court through guardianship proceedings.

(History: Sec. 53-2-201, MCA; IMP, Sec. 53-5-205, MCA; NEW, 1978 MAR p. 206, Eff. 2/25/78; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 657.)

37.47.107 ADULT PROTECTIVE SERVICES, ELIGIBILITY

(1) Adult protective services will be provided when necessary without regard to income to any person who is aged or disabled as defined in ARM 37.47.102.

(History: Sec. 53-2-201, MCA; IMP, Sec. 53-5-203, 53-5-204 and 53-5-205, MCA; NEW, 1979 MAR p. 1705, Eff. 12/28/79; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 657.)

Rules 08 through 10 reserved

37.47.111 ADULT PROTECTIVE SERVICES: OBTAINING SERVICES

(1) The welfare department of the county in which the applicant resides or is found receives and investigates requests for protective services.

(2) Request for service is accepted from aged or disabled persons on their own behalf or from any relative or persons interested in the individual's welfare.

(3) A request for service may be written or oral, however, a written request on a form available from the county welfare department is preferred.

(History: Sec. 53-2-201, MCA; IMP, Sec. 53-5-205, MCA; NEW, 1978 MAR p. 206, Eff. 2/25/78; AMD, 1979 MAR p. 1705, Eff. 12/28/79; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 657.)

Subchapter 2 reserved

Subchapter 3

Child Protective Services

37.47.301 CHILD PROTECTIVE SERVICES: DEFINITIONS

(REPEALED)

(History: Sec. 2-4-201, 41-3-208 and 52-2-111, MCA; IMP, Sec. 41-3-102, 41-3-201, 41-3-202 and 41-3-302, MCA; NEW, 1994 MAR p. 2431, Eff. 8/26/94; TRANS, from DFS, 1998 MAR p. 657; AMD, 2004 MAR p. 1793, Eff. 8/6/04; REP, 2004 MAR p. 2409, Eff. 10/8/04.)

37.47.302 CENTRALIZED INTAKE BUREAU

(1) The centralized intake (CI) bureau is established within the department and is responsible for the operation of the statewide centralized intake system which receives all reports of suspected child abuse, neglect or abandonment statewide from both mandatory and discretionary reporters 24 hours a day, seven days a week.

(2) The department operates a child abuse hotline within the CI bureau to receive and screen incoming communications.

(3) All reports of child abuse or neglect must be made through the child abuse hotline. If a person calls, visits or writes a department office other than the child abuse hotline to report child abuse or neglect, that department office shall refer the person or written communication to the hotline.

(History: Sec. 2-4-201 and 41-3-208, MCA; IMP, Sec. 41-3-102, 41-3-201, 41-3-202 and 41-3-302, MCA; NEW, 2004 MAR p. 1793, Eff. 8/6/04.)

37.47.303 CHILD ABUSE HOTLINE: REPORT AND SCREENING OF INFORMATION

(1) When the child abuse hotline receives an incoming communication, the CI specialist will:

(a) ask the caller's identity:

(i) if the caller does not wish to self-identify, the CI specialist shall also accept an anonymous call;

(b) use standardized questions to screen the communication and determine:

(i) the type of child abuse or neglect alleged;

(ii) the level of response required; and

(iii) how the report will be classified;

(c) check the program information system for prior reports on the same persons; and

(d) enter the report information into the protective service information system described at ARM 37.47.315.

(2) When the incoming communication received by the hotline contains an allegation of child abuse or neglect requiring investigation, the CI specialist shall transmit the report to a local office for a response pursuant to 41-3-202, MCA.

(3) When an incoming communication received by the hotline results in a report alleging child abuse or neglect which indicates a child may be in immediate danger of serious harm, thus requiring an immediate response, the CI specialist will promptly contact the appropriate social worker in the field designated to receive those reports and verbally inform the field social worker of:

(a) the nature of the concerns;

(b) where the child or children of concern can be located; and

(c) any other information necessary to facilitate protection of the child or children.

(4) Following verbal communication with the field social worker, the CI specialist shall promptly enter the report information into the protective service information system and transmit the report electronically to the department's local office.

(5) When an incoming communication received by the hotline does not contain an allegation of child abuse or neglect, but instead is classified as a request for services, as child protection information only, or a report regarding a licensee issue, the CI specialist shall also record that information.

(History: Sec. 2-4-201 and 41-3-208, MCA; IMP, Sec. 41-3-102, 41-3-201, 41-3-202 and 41-3-302, MCA; NEW, 2004 MAR p. 1793, Eff. 8/6/04.)

37.47.304 CHILD PROTECTIVE SERVICES: INVESTIGATIONS REGARDING PERSONS PRESENT IN LICENSED OR REGISTERED FACILITIES OR IN ASSISTANCE OF LAW ENFORCEMENT (REPEALED)

(History: Sec. 41-3-208 and 52-2-111, MCA; IMP, Sec. 41-3-102, 41-3-202, 41-3-302, 41-3-1142 and 52-2-741, MCA; NEW, 1994 MAR p. 2431, Eff. 8/26/94; TRANS, from DFS, 1998 MAR p. 657; REP, 2004 MAR p. 2409, Eff. 10/8/04.)

Rules 05 through 14 reserved

37.47.315 CHILD PROTECTIVE SERVICES: INFORMATION SYSTEM OPERATION

(1) "Protective services information systems" means a collection of records in a central location of all reports relating to investigations of child abuse or neglect cases. The department is responsible for maintaining the protective services information system.

(2) All reports of the protective services information system are confidential.

(3) Misuse of the information by any employee of the department is grounds for immediate dismissal.

(4) Misuse of information by persons other than department employees shall be grounds for termination of the person's rights to such information.

(5) Periodic statistical reports will be compiled.

(6) Persons who are subjects of the reports have the right to examine the protective services information system material on their case in accordance with ARM Title 37, chapter 47, subchapter 6.

(History: Sec. 41-3-208, MCA; IMP, Sec. 41-3-202, MCA; NEW, Eff. 4/5/76; AMD, 1981 MAR p. 1112, Eff. 10/1/81; AMD, 1983 MAR p. 1838, Eff. 12/16/83; AMD, 1984 MAR p. 1412, Eff. 9/28/84; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; AMD, 1994 MAR p. 2431, Eff. 8/26/94; TRANS, from DFS, 1998 MAR p. 657; AMD, 2004 MAR p. 2409, Eff. 10/8/04.)

Subchapters 4 and 5 reserved

Subchapter 6

Confidentiality of Case Records

37.47.601 PROTECTIVE SERVICES: PURPOSE

(1) The rules of this subchapter govern the disclosure and amendment of case records containing reports of child abuse, neglect or exploitation.

(History: Sec. 41-3-208, MCA; IMP, Sec. 41-3-205, MCA; NEW, 1987 MAR p. 1980, Eff. 10/30/87; AMD, 1994 MAR p. 2433, Eff. 8/26/94; TRANS, from DFS, 1998 MAR p. 657; AMD, 2004 MAR p. 2409, Eff. 10/8/04.)

37.47.602 PROTECTIVE SERVICES: DEFINITIONS For purposes of this subchapter, the following definitions shall apply:

(1) "Case records" means any records maintained by the department relating to reports and investigations of child abuse, neglect or exploitation. Photographs, video and audio tapes may also be included as part of the case record. The term does not include confidential reports or evaluations, such as psychological evaluations, provided to the department by other professionals, or licensing or registration files of providers licensed, registered, or certified by the department.

(2) "Child abuse or neglect" means that defined in 41-3- 102, MCA, including the various definitions for the types of abuse, neglect and exploitation.

(3) "Confidential information" means information in case records that is restricted by law from being disclosed.

(4) "Department" means the department of public health and human services.

(5) "Disclosure" means to release for inspection or copying or to make known or reveal in any manner any information contained in case records.

(6) "A person responsible for a child's welfare" means those persons specified in 41-3-102, MCA.

(7) "Report of child abuse, neglect or exploitation" means a referral alleging that a child may be abused, neglected or exploited.

(8) "Subject" means the person responsible for a child's welfare who is the alleged perpetrator of the child abuse, neglect or exploitation.

(9) "Substantiated report" means that, after an investigation, the investigating worker has determined by a preponderance of the evidence that the reported child abuse, neglect or exploitation occurred, based upon credible information or facts.

(10) "Unfounded report" means that, after an investigation, the investigating worker has determined the reported abuse, neglect or exploitation has not occurred.

(11) "Unsubstantiated report" means that, afer an investigation, the investigator was unable to determine by a preponderance of the evidence that the reported abuse, neglect or exploitation occurred.

(History: Sec. 2-4-201, 41-3-208, and 52-3-205, MCA; IMP, Sec. 2-4-201, 41-3-102, 41-3-202, 41-3-205, and 52-3-205, MCA; NEW, 1987 MAR p. 1980, Eff. 10/30/87; AMD, 1994 MAR p. 1290, Eff. 5/13/94; AMD, 1994 MAR p. 2433, Eff. 8/26/94; TRANS, from DFS, 1998 MAR p. 657; AMD, 2004 MAR p. 2409, Eff. 10/8/04.)

Rules 03 through 06 reserved

37.47.607 PROTECTIVE SERVICES: DISCLOSURE

(1) Case records may be disclosed to those individuals or entities referred to in the applicable provisions of 41-3-205, MCA.

(2) The department may prevent the disclosure of any portions of the case record if:

(a) the disclosure of the information is determined to be detrimental to the child or harmful to any person named in the records, in accordance with 41-3-205, MCA; or

(b) the disclosure is prohibited by:

(i) the federal Health Insurance Portability and Accountability Act (HIPAA), found at 42 USC 1320d et seq., and associated federal regulations;

(ii) the Government Health Care Information Act found in Title 50, chapter 16, part 6, MCA; or

(iii) the Montana Criminal Justice Information Act found in Title 44, chapter 5, MCA.

(3) At no time shall the identity of the referral source making the initial referral or providing information in the course of the investigation be shared with the person or persons about whom the referral is made.

(4) Case records will be disclosed to employees if disclosure is necessary for the administration of programs designed to benefit the child deemed to be abused, neglected or exploited.

(History: Sec. 41-3-208, MCA; IMP, Sec. 41-3-205, MCA; NEW, 1987 MAR p. 1980, Eff. 10/30/87; AMD, 1992 MAR p. 2378, Eff. 10/30/92; AMD, 1994 MAR p. 2433, Eff.

8/26/94; TRANS, from DFS, 1998 MAR p. 657; AMD, 2004 MAR p. 2409, Eff. 10/8/04.)

37.47.608 PROTECTIVE SERVICES: PROCEDURES

(1) Requests for disclosure must be in writing to the department.

(a) The department shall respond to a request for disclosure within 30 calendar days of the request.

(b) If the request for disclosure is denied, the department shall notify the person requesting the information in writing of the reasons for denial.

(2) Upon receiving a request for disclosure, the department shall determine if the person or entity who is requesting disclosure is authorized by statute or these rules to receive such information.

(a) Any person who is not authorized to receive the information shall be notified in writing that the information cannot legally be disclosed without a court order.

(b) If the person or entity requesting disclosure is authorized by statute or these rules to receive the requested information, the department may disclose the information to the requesting person or entity except as provided in ARM 37.47.607.

(i) The person or entity requesting the information may inspect the case records at the department offices and may request copies of any portion of the case record.

(ii) No fee will be charged for inspection. The department may charge a reasonable fee for the costs of copying the case records. No fee will be charged for copies of the case record that are provided to a parent, a guardian or a parent's or guardian's attorney.

(iii) If the information cannot be disclosed within 30 calendar days of receiving the request, the department shall notify the requesting person or entity in writing of the reason for the delay.

(History: Sec. 41-3-208, MCA; IMP, Sec. 41-3-205, MCA; NEW, 1987 MAR p. 1980, Eff. 10/30/87; AMD, 1992 MAR p. 2378, Eff. 10/30/92; TRANS, from DFS, 1998 MAR p. 657; AMD, 2004 MAR p. 2409, Eff. 10/8/04.)

37.47.609 PROTECTIVE SERVICES: REQUEST FOR REVIEW AND AMENDMENT OF THE RECORD (REPEALED)

(History: Sec. 2-4-201, 41-3-208 and 52-3-205, MCA; IMP, Sec. 2-4-201, 41-3-205 and 52-3-205, MCA; NEW, 1987 MAR p. 1980, Eff. 10/30/87; AMD, 1994 MAR p. 1290, Eff. 5/13/94; AMD, 1995 MAR p. 1423, Eff. 7/28/95; TRANS, from DFS, 1998 MAR p. 657; REP, 2004 MAR p. 2409, Eff. 10/8/04.)

37.47.610 CHILD PROTECTIVE SERVICES: RIGHT TO FAIR HEARING TO CONTEST SUBSTANTIATED REPORTS

(1) The subject of a substantiated report may request a fair hearing unless the circumstances provided in ARM 37.47.615 exist.

(2) The request for a fair hearing must be in writing and be sent within 30 days after the date of mailing of the department's initial notice of its substantiation determination. The request must be sent to: Division Administrator, Department of Public Health and Human Services, Child and Family Services Division, 1400 Broadway, P.O. Box 8005, Helena, MT 59604-8005.

(3) Upon receipt of the request for a fair hearing, the department will conduct an informal review of the substantiated report and the case record information.

- (a) The informal review is limited to the records and documentation relevant to the case, and any written material provided by the subject. The informal review is not subject to the provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, MCA.
- (b) If, after the informal review, the department determines that the substantiated report is in error, the department will amend the finding to reflect that the report is unsubstantiated, and notify the subject of the decision.
- (c) If, after the informal review, the department determines that the substantiated report is not in error, the department will notify the department's office of fair hearings so that a hearing date and time may be scheduled.
- (4) The fair hearing will be conducted pursuant to Title 2, chapter 4, part 6, MCA, of the Montana Administrative Procedure Act and ARM 37.5.118.
- (5) A hearsay statement of the child victim is admissible evidence in the fair hearing if the statement is sufficiently indicative of its reliability, in accordance with Montana law. The factors to be considered include:
 - (a) the attributes of the child making the hearsay statement;
 - (b) the witness relating the child's hearsay statement;
 - (c) the child's statement itself; and
 - (d) any other factors that provide for the reliability of the child's statement.
- (6) The hearing officer's decision is the final agency decision for purposes of judicial review under ARM 37.5.334.

(History: Sec. 2-4-201 and 41-3-208, MCA; IMP, Sec. 2-4-201, 2- 4-612, 41-3-202 and 41-3-205, MCA; NEW, 2004 MAR p. 2409, Eff. 10/8/04.)

Rules 11 and 12 reserved

37.47.613 CHILD PROTECTIVE SERVICES: LISTING OF DETERMINATION IN THE PROTECTION INFORMATION SYSTEM

- (1) When the department substantiates a report of child abuse, neglect or exploitation, the department will list in its protective services information system, as provided in ARM 37.47.315, that the report's final determination is pending. The report will be pending for a period of 30 days from the date of the department's initial notice of its substantiation determination.
- (2) If, after receiving the initial notice of the department's substantiation, the subject does not request a fair hearing within the 30 day time period required by ARM 37.47.610(2), the department will list the report in its protective services information system as being substantiated.
- (3) If the subject requests a fair hearing pursuant to ARM 37.47.610(2), the department's determination will be listed as pending in its protective services information system until the outcome of the informal reconsideration, the fair hearing or appeal, whichever decision is considered final.

(History: Sec. 2-4-201 and 41-3-208, MCA; IMP, Sec. 2-4-201, 41-3-202 and 41-3- 205, MCA; NEW, 2004 MAR p. 2409, Eff. 10/8/04.)

Rule 14 reserved

37.47.615 CHILD PROTECTIVE SERVICES: EXCEPTIONS TO RIGHT TO FAIR HEARING

- (1) The subject of a substantiated report of child abuse, neglect or exploitation is not entitled to a fair hearing if:

- (a) the subject has been criminally convicted, as defined in 45-2-101(15), MCA, of an offense related to child abuse, neglect or exploitation which contains the same facts as the substantiated report and involves the same child victim; or
- (b) pursuant to 41-3-437(2) or 41-3-434, MCA, there has been a district court adjudication that the child in the substantiated report is a youth in need of care, as defined in 41-3-102, MCA; and
- (i) the facts of the district court adjudication are the same as that of the substantiated report; and
- (ii) the subject of the substantiated report has been determined by the district court to be the perpetrator of the child abuse, neglect or exploitation; or
- (c) a court or administrative hearing officer has made any adjudication in a prior proceeding as to the factual findings of the child abuse, neglect or exploitation contained in the substantiated report.

(History: Sec. 2-4-201 and 41-3-208, MCA; IMP, Sec. 2-4-201 and 41-3-205, MCA; NEW, 2004 MAR p. 2409, Eff. 10/8/04.)

Subchapters 7 and 8 reserved

Subchapter 9

Home Attendant Services

37.47.901 HOME ATTENDANT SERVICES, DEFINITION

(1) Home attendant services consist of general household activities performed by a home attendant. Such services are provided to a person who is unable to manage his home or care for himself or others in the home or when another who is regularly responsible for these activities on behalf of that person is absent.

(History: Sec. 53-2-201, MCA; IMP, Sec. 53-2-201, MCA; NEW, 1983 MAR p. 863, Eff. 7/15/83; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 3218.)

Rules 02 and 03 reserved

37.47.904 HOME ATTENDANT SERVICES, ELIGIBILITY

(1) In order to be considered by the department for receipt of home attendant services, a person must be eligible for one of the following categories of service:

- (a) aid to families and dependent children (AFDC);
- (b) supplemental security income (SSI);
- (c) medicaid;
- (d) child protective services; or
- (e) adult protective services.

(2) Home attendant services will be provided as follows:

(a) at the discretion of the department to persons in the categories listed in (1)(a) through (1)(c) who are determined through a professional evaluation to be in need of those services and for whom there are direct care staff available to provide those services; (b) to persons in (1)(d) and (1)(e) for whom the services are a documented part of a child or adult protective services case plan developed by a program and planning division social worker.

(3) Home attendant services are available only to a person in their home.

(4) Receipt of home attendant services by any person must be consented to by the person or their guardian.

(History: Sec. 53-2-201, MCA; IMP, Sec. 53-2-201, MCA; NEW, 1983 MAR p. 863, Eff. 7/15/83; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 3218.)

37.47.905 HOME ATTENDANT SERVICES, SERVICES AVAILABLE

(1) Home attendant services may include but are not limited to:

- (a) household management services;
- (b) health supportive services;
- (c) social restorative services;
- (d) teaching services; and
- (e) personal care attendant services.

(2) Household management services consist of assistance with those activities necessary for maintaining and operating a home and may include assisting the recipient in finding and relocating in other housing.

(3) Health supportive services consist of assistance with those activities necessary to meet a person's health care needs.

(4) Social restorative services consist of assistance which will further a person's involvement with activities and other persons.

(5) Teaching services consist of activities which will improve a person's or family's skills in household management, self care, social functioning, and child care activities.

(6) Personal care attendant services consist of health oriented tasks which include basic personal hygiene and grooming (bathing, dressing, shaving), assistance with toileting, assistance with self-administered medications, assistance with food, nutrition, diet (including the preparation of meals if incidental to medical need), and accompanying the patient to obtain medical diagnosis or treatment.

(History: Sec. 53-2- 201, MCA; IMP, Sec. 53-2-201, MCA; NEW, 1983 MAR p. 863, Eff. 7/15/83; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 3218.)

Rules 06 through 09 reserved

37.47.910 TERMINATION OF HOME ATTENDANT SERVICES

(1) The recipient may request that home attendant services be discontinued or may request a change of home attendant. The social worker must act on this request.

(2) The department may, in its discretion and in accordance with these rules, terminate home attendant services to a recipient.

(a) The social worker must inform the recipient both in person and in writing of the decision to discontinue services and the reasons.

(History: Sec. 53-2-201, MCA; IMP, Sec. 53-2- 201, MCA; NEW, 1983 MAR p. 863, Eff. 7/15/83; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 3218.)

Subchapter 10

Battered Spouses and Domestic Violence Program

37.47.1001 DEFINITIONS "Department" means the department of public health and human services.

(1) "Grant application" means a written application to the department under the terms of Title 40, chapter 2, part 4, MCA and these rules.

(2) "Domestic violence" means any act or threatened act of violence, including any forceful detention of an individual which results or threatens to result in physical injury

and is committed by a person against another person to whom such person is or was married or with whom the assaulted person cohabits or formerly cohabited. "Spouse abuse" is included within the definition of "domestic violence".

(3) "Local battered spouse and domestic violence program" means a community-based program directed at the problems of domestic violence which may include but is not limited to providing direct services to victims of domestic violence.

(4) "Shelter" means a permanent facility that offers emergency, short term shelter to victims of domestic violence and may provide other support services such as crisis counseling and referral to appropriate community services.

(5) "Safe homes" means private homes available to provide emergency short term shelter to victims of domestic violence when needed.

(6) "Local contribution" means the 20% of the operational costs of the program in the form of cash or in-kind contributions generated from the community to be served.

(7) "In-kind contributions" means program support other than direct funding and may include such things as volunteer time, donated space and donated supplies.

(8) "Local control unit" means a community-based body which may be a governmental entity or non-profit board, agency or committee which is responsible and accountable for the administration and execution of the program.

(9) "Counseling" means crisis or longer term individual or group counseling by professionals or trained volunteers for victims and others involved in domestic violence situations.

(10) "Advocacy programs" means programs that assist or act on behalf of victims in obtaining such things as services and information.

(11) "Educational programs" means programs related to battered spouses and domestic violence which may be designed for the community at large or specialized groups such as hospital personnel and law enforcement officials.

(History: Sec. 40-2-402, MCA; IMP, Sec. 40-2-401, MCA; NEW, 1979 MAR p. 813, Eff. 7/27/79; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 657.)

Rules 02 through 04 reserved

37.47.1005 DEPARTMENT ADMINISTRATIVE POLICIES AND RESPONSIBILITIES

(1) The goal of the department is to develop a coordinated, comprehensive, statewide network of local domestic violence programs. In keeping with this goal, grants will be allocated for:

- (a) expansion or maintenance of existing programs;
- (b) new programs; and
- (c) innovative programs with the potential for replication.

(2) The department reserves the right to fund all or part of a program or to reject a grant application.

(3) The department will make the final decisions on grant awards.

(4) Grants will be awarded annually for a maximum of twelve months. Applications for renewal will be evaluated in the same manner as new applications.

(5) Applications for grant awards are to be received by the department by June 1.

Decisions for grant awards will be made on or before June 15 with awards to be made on July 1.

(6) The department shall award grants to locally controlled units such as a non-profit board or administrative body that shall be responsible and accountable to the department under an agreement based on the grant application.

(7) The department shall require quarterly progress and final reports.

(8) The department shall require expense records and reports. Funds granted shall be used only for the purposes outlined and described in the application and approved by the department. Programs awarded grants are subject to audit by the office of the legislative auditor and the department.

(9) The department will monitor programs awarded grants.

(10) Applications submitted to the department become government documents subject to public scrutiny. Names of individuals or information about facilities that require confidentiality protection will not be disclosed.

(History: Sec. 40-2-402, MCA; IMP, Sec. 40-2-401, MCA; NEW, 1979 MAR p. 813, Eff. 7/27/79; AMD, 1982 MAR p. 1279, Eff. 7/1/82; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 657.)

Rules 06 and 07 reserved

37.47.1008 AWARDING GRANTS, CRITERIA

(1) Grants will be awarded on the basis of these rules and the following criteria:

(a) demonstrated need as documented by such sources as data from the community involving incidence of the domestic violence needs assessments, inadequacy of resources to meet needs, and community letters of support;

(b) project merit which will include factors such as cost benefit and clear meeting of identified needs;

(c) administrative design which includes method of evaluation, program organizational structure such as staff and board of directors if applicable, and relationships with other community organizations and agencies; and

(d) efficiency of administration including the maximum use of other resources and the capability to sustain programs without grant money.

(History: Sec. 40-2-402, MCA; IMP, Sec. 40-2-401, MCA; NEW, 1979 MAR p. 813, Eff. 7/27/79; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 657.)

Rules 09 through 14 reserved

37.47.1015 GRANT APPLICATION, ELIGIBILITY REQUIREMENTS

(1) Local control by a community-based body must be documented through a description of that body and names and addresses of key individuals who will be responsible and accountable for the program.

(2) There shall be no residency requirement for persons served by programs to which grants are awarded.

(3) Shelters must be licensed by the state department of public health and human services as a "rooming house" in order to be eligible for a grant award.

(4) Programs which include any payments to safe homes must document that the homes carry home owners liability and fire insurance.

(5) Programs which include funding for counseling services must demonstrate that the counseling is directed towards assisting the victim and others involved to be free from violent situations.

(6) Programs that include funding for advocacy services must keep records that document results in assisting victims.

(7) Programs that include funding for educational programs must define clear objectives and include an evaluation design.

(History: Sec. 40-2-402, MCA; IMP, Sec. 40-2-401, MCA; NEW, 1979 MAR p. 813, Eff. 7/27/79; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 657.)

Rule 16 through 19 reserved

37.47.1020 GRANT APPLICATION, GENERAL REQUIREMENTS

(1) Three copies of the grant application should be sent to the Montana Department of Public Health and Human Services, Child and Family Services Division, Domestic Violence Grant Program, P.O. Box 202951, Helena, Montana 59620.

(2) Although not required, it is suggested that:

(a) the application should be typed, printed or otherwise legibly reproduced on 8½ x 11" paper; and

(b) all pages be consecutively numbered.

(3) The application should state the name, title, telephone number and post office address of the person to whom communication in regard to the application should be made.

(4) The department will review the application to determine compliance with these rules. If the department determines that the application does not comply, the department will reject the application, notifying the applicant in writing and listing the application deficiencies within 2 weeks of receiving the application. The application may be corrected and resubmitted but must be received by the final submittal deadline.

(5) After an application is filed, the applicant should submit supplemental material upon request or as soon as possible after it becomes available.

(6) There is no form adopted by the department for use in making an application.

(History: Sec. 40-2-402, MCA; IMP, Sec. 40-2-401, MCA; NEW, 1979 MAR p. 813, Eff. 7/27/79; AMD, 1982 MAR p. 1279, Eff. 7/1/82; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 657.)

37.47.1021 GRANT APPLICATION, CONTENT REQUIREMENTS

(1) Each grant application must include:

(a) project title;

(b) applicant's name, title, address, and phone number;

(c) statement demonstrating compliance with ARM 37.47.1015 eligibility requirements;

(d) amount requested;

(e) amount of match -- cash, in-kind and total;

(f) signature(s) of responsible person(s);

(g) statements regarding protection of rights for confidentiality and nondiscrimination; and

(h) budget balance sheet and budget justification.

(2) The application must also include a brief program narrative which shall consist of, but is not limited to, the following specific areas:

(a) a general statement of the scope and purpose of the program, including services to be offered;

(b) documentation of the need for the program including any available needs assessment pertinent to the program;

(c) description of the responsible local body; organization chart or outline showing lines of authority, responsibility and accountability; staff and job descriptions, including volunteers;

(d) clearly stated program objectives relevant to the services to be provided and number of clients served; the objectives should be measurable so the evaluation of a program can be based on actual performance of a program in relation to stated objectives;

(e) community support including documentation of 20% local contribution for operating costs and letters of support;

(f) geographic area to be served including outreach activity and linkages with other agencies and organizations;

(g) if an ongoing program, describe stability and community commitment through a maintenance and expansion of programmatic and fiscal effort, describe other funding sources explored;

(h) evaluation design; and

(i) desired method of payment.

(History: Sec. 40-2-402, MCA; IMP, Sec. 40-2-401, MCA; NEW, 1979 MAR p. 813, Eff. 7/27/79; TRANS, from Dept. of SRS, 1987 MAR p. 1492, Eff. 7/1/87; TRANS, from DFS, 1998 MAR p. 657.)

Chapter 48 reserved