

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.29.1616 pertaining to the)
drug formulary in the Utilization and)
Treatment Guidelines for Workers')
Compensation and Occupational)
Disease)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On November 30, 2020, at 3:30 p.m., the Department of Labor and Industry (department) will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rule. Because there currently exists a state of emergency in Montana due to the public health crisis caused by the novel coronavirus, 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/93057189608>, Meeting ID: 930 5718 9608; or
- (b) Dial by telephone, +1 406 444 9999 or +1 646 558 8656, Meeting ID: 930 5718 9608

The hearing will begin with a brief introduction by department staff to explain the use of the videoconference and telephonic platform. All participants will be muted except when it is their time to speak.

2. The 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 4:00 p.m., November 23, 2020, to advise us of the nature of the accommodation that you need. Please contact Jason Swant, Employment Relations Division, P.O. Box 8011, Helena, Montana 59604; telephone (406) 444-6451; facsimile (406) 444-4140; Montana TTD (406) 444-5549; or e-mail JSwant@mt.gov.

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

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; ~~and~~

(b) for prescriptions written ~~on or after~~ between January 1, 2020 through December 31, 2020, the October 2019 edition of the ODG Drug Formulary; and
(c) for prescriptions written on or after January 1, 2021, the October 2020
edition of the ODG Drug Formulary.

(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 ARM 24.29.1616 because the department has adopted a commercial drug formulary. The drug formulary rule must be updated annually via the administrative rule amendment process in order to comply with the provisions of 39-71-704(3)(b)(i) and (ii), MCA (2017). The automatic monthly update process is expressly provided for by 2-4-307(8), MCA.

4. Copies of the proposed 2021 ODG Drug Formulary are available and can be accessed online at: <http://erd.dli.mt.gov/work-comp-claims/medical-regulations/formulary>.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Jason Swant, Employment Relations Division, P.O. Box 8011, Helena, MT 59604; fax (406) 444-4140; or e-mail to JSwant@mt.gov, and must be received no later than 5:00 p.m., December 7, 2020.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request, which includes the name and e-mail or mailing address of the person to receive notices and specifies the particular subject matter or matters regarding which the person wishes to receive notices. Such written request may be mailed or delivered to the Department of Labor and Industry, attention: Mark Cadwallader, P.O. Box 1728, Helena, Montana 59624-1728, faxed to the department at (406) 444-1394, or e-mailed to mcadwallader@mt.gov, or may be made by completing a request form at any rules hearing held by the agency.

7. An electronic copy of this notice of public hearing is available through the department's web site at <http://dli.mt.gov/events/calendar.asp>, under the Calendar of Events, Administrative Rules Hearings Section. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that a person's difficulties in sending an e-mail do not excuse late submission of comments.

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

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

10. The department's Office of Administrative Hearings has been designated to preside over and conduct this hearing.

/s/ Quinlan L. O'Connor
Quinlan L. O'Connor
Alternate Rule Reviewer

/s/ Brenda Nordlund
Brenda Nordlund, Acting Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State October 27, 2020.