

Making sense of the Medicaid appeals process

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Civil Legal Aid

- Developed as part of President Lyndon Johnson's War on Poverty;

- Administered by the Legal Services Corporation, funded by federal dollars;

- Services include, legal advice, limited or full representation and legal information for clients living in poverty

- Protection of basic human dignity through:

- Safe and Secure Housing
- Family Safety
- Financial Security

What is the Need?

1 million Montanans

1 private attorney for every 274 residents

192,975 eligible Montanans Lewistown

1 MLSA attorney for every 12,252 eligible Montanans

In 2018, MLSA received 8,452 requests for help

MLSA advocates handled 3,953 cases

5,201 adults helped
4,102 children helped



A Medical Legal Partnership



is an intervention where legal and health care professionals collaborate to help patients resolve

SOCIAL & ENVIRONMENTAL FACTORS

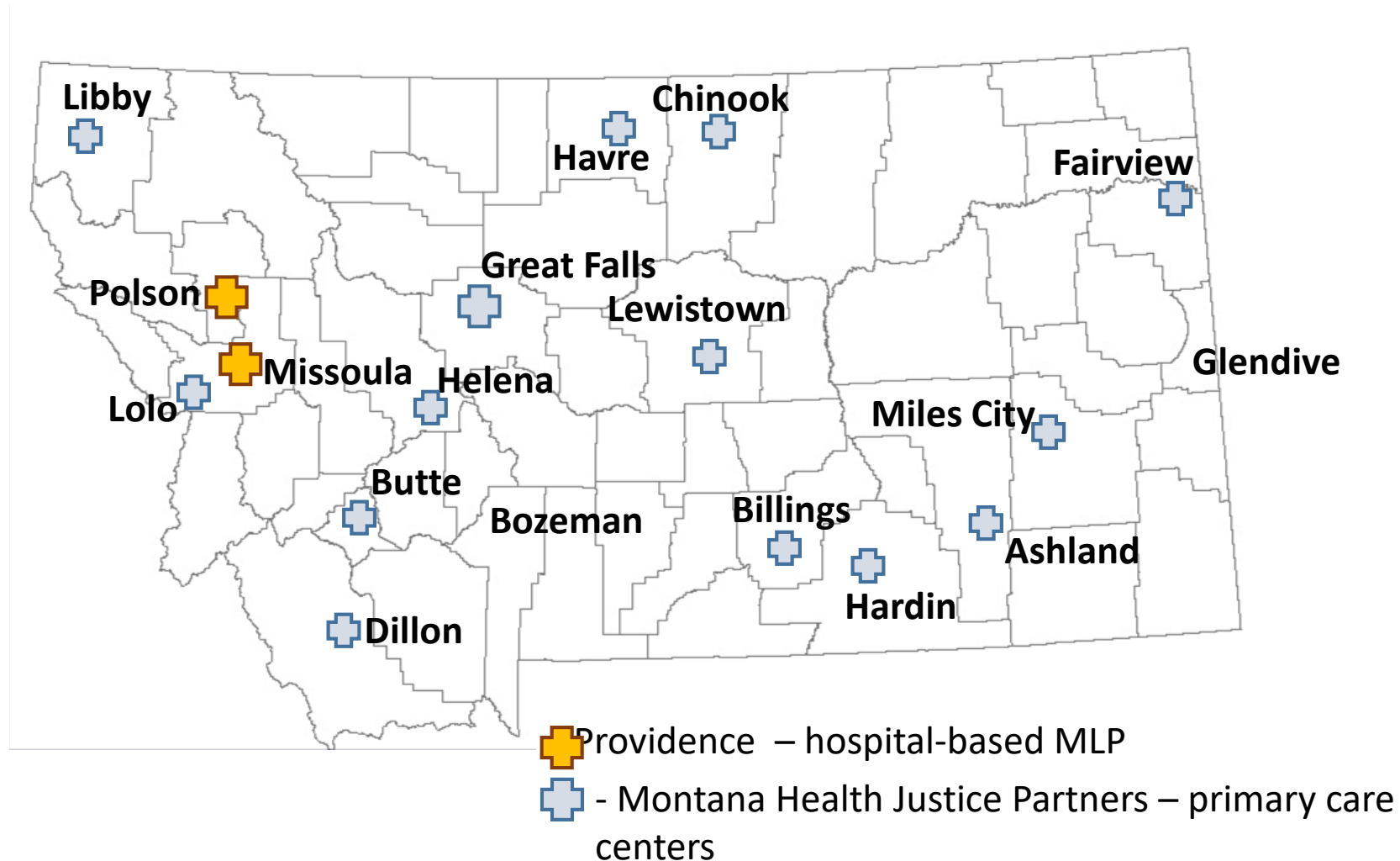
that contribute to

HEALTH DISPARITIES

and have a remedy in civil law.

from the National Center for Medical Legal Partnership

Montana Medical Legal Partnerships





Research on MLPs shows:








- People with chronic illnesses are admitted to the hospital less frequently
- People more commonly take their medications as prescribed
- People report less stress and experience improvements in mental health
- Less money is spent on health care services for the people who would otherwise frequently go to the hospital, and use of preventative health care increases
- Clinical services are more frequently reimbursed by public and private payers

Clinicians report:

- Improved health outcomes for patients
- Improved patient compliance with medical treatment
- Improved ability to perform “at the top of their license”

SDOH and Legal Aid



Common Social Determinant of Health	How Legal Services Can Help	Impact of Legal Services on Health / Health Care
<p>INCOME Resources to meet daily basic needs</p> 	<ul style="list-style-type: none"> • Appeal denials of food stamps, health insurance, cash benefits, and disability benefits 	<ol style="list-style-type: none"> 1. Increasing someone's income means s/he makes fewer trade-offs between affording food and health care, including medications. 2. Being able to afford enough healthy food helps people manage chronic diseases and helps children grow and develop.
<p>HOUSING & UTILITIES A healthy physical environment</p> 	<ul style="list-style-type: none"> • Secure housing subsidies • Improve substandard conditions • Prevent evictions • Protect against utility shut-off 	<ol style="list-style-type: none"> 1. A stable, decent, affordable home helps a person avoid costly emergency room visits related to homelessness. 2. Consistent housing, heat and electricity helps people follow their medical treatment plans.
<p>EDUCATION & EMPLOYMENT Quality educational and job opportunities</p> 	<ul style="list-style-type: none"> • Secure specialized education services • Prevent and remedy employment discrimination • Enforce workplace rights 	<ol style="list-style-type: none"> 1. A quality education is the single greatest predictor of a person's adult health. 2. Consistent employment helps provide money for food and safe housing, which also helps avoid costly emergency health care services. 3. Access to health insurance is often linked to employment.
<p>LEGAL STATUS Access to jobs</p> 	<ul style="list-style-type: none"> • Resolve veteran discharge status • Clear criminal / credit histories • Assist with asylum applications 	<ol style="list-style-type: none"> 1. Clearing a person's criminal history or helping a veteran change their discharge status helps make consistent employment and access to public benefits possible. 2. Consistent employment provides money for food and safe housing, which helps people avoid costly emergency health care services.
<p>PERSONAL & FAMILY STABILITY Safe homes and social support</p> 	<ul style="list-style-type: none"> • Secure restraining orders for domestic violence • Secure adoption, custody and guardianship for children 	<ol style="list-style-type: none"> 1. Less violence at home means less need for costly emergency health care services. 2. Stable family relationships significantly reduce stress and allow for better decision-making, including decisions related to health care.



Types of Public Benefits



- State-administered Benefits (combined state + federal funding)
 - SNAP
 - TANF
 - Medicaid (health insurance for low income consumers)
 - WIC
 - LIEAP
 - Best Beginnings Child Care Scholarship
 - Medicaid Waiver programs

 - Workers Compensation and Unemployment insurance are employment-related benefits
 - WC and UI are not low income assistance programs



DPPHS-administered programs



- SNAP – food stamps
- TANF - cash assistance
- Medicaid - low income medical coverage
 - Waiver programs – Home & Community Based Services

What is Medicaid

- A state-federal program that directly pays health care providers for services given to low-income individuals. It is not health insurance, but rather health coverage.
- Combo of state and federal funding and partly controlled by federal rules for states (like MT) that accept state funding

The types of Medicaid

- Aged/Blind/Disabled Medicaid
 - Categorically needy
 - Medically needy

- Family/ACA Medicaid

- Waiver programs



Categorically needy

- Qualify based on disability status
- E.g. – most common is SSI recipients; they automatically qualify
- Manual: <https://dphhs.mt.gov/hcsd/mamannual>

Medically needy

- Medicaid is for disabled individuals who are over-income for categorically needy Medicaid
- E.g. someone receiving SSDI who is over the categorically needy limit
- Individuals on medically needy Medicaid have to spend their way down to financial eligibility each month.

b. Affordable Care Act/Family Medicaid



- MLSA infrequently sees these ; qualification requirements are simpler
- Key point with qualification: is no resource test for ACA Medicaid categories. Income is also determined by the household's Modified Adjusted Gross Income (“MAGI”).

Waiver programs

- Medicaid Waivers are waivers from the State Plan and must be approved by the federal government.
- Most common waiver: Home and Community Based Services (“HCBS”) – Big Sky Waiver
- Montana’s Medicaid Waivers can be found on the Centers for Medicare and Medicaid Services website here:
<https://www.medicare.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/index.html>.

Income/resource hurdles

- There are income and resource limits for ABD Medicaid categories (not so with family Medicaid).
- Resources are usually the most common issues for those trying to establish ABD eligibility.
- Income limits are pre-cleared for categorical eligibility
- There is no resource test for ACA Medicaid categories. Income is also determined by the household's Modified Adjusted Gross Income (“MAGI”).

Resource guidance

- Primary residence and surrounding property are typically excluded; this may change when people are in an institution or long-term care facility
- Trusts – the trust, not the individual, owns the assets; these can be structured so that certain types/certain assets do not count – these are often reason for attorney consultation
- Tribal assets – generally countable
- Vehicles – generally all countable at FMV

****Beware of improper asset transfers and the lookback period****

What to do if you get a denial

- A patient should be notified in writing of a denial
- This kicks off the time period for appealing the denial and there are two things you should look for:
 - Basis for the denial
 - Date of the action and the deadline for appealing

Steps to Appeal

1. Notice of “adverse action” (defined at ARM 37.5.304)
2. Administrative Review
3. Contested Case Hearing (MAPA / APA)
20% chance of winning at hearing (OFH statistics
2008-2014)
4. Appeal to Board of Public Assistance
5. Judicial Review (§2-4-702, MCA)



When to refer to MLSA



- If you believe there is categorical eligibility but there has been a denial
- If there is a dispute about whether assets/income should count toward eligibility
- Loss of benefits/potential penalties
- If the client has unique challenges that make it hard to navigate the process

When referrals are unlikely to help



- We do not assist at the application stage; not until there is a denial and some administrative action to take
- If the patient clearly does not qualify due to resources; or if more paperwork is needed to establish eligibility
- Denials for specific treatment or prior authorizations as medically unnecessary

MLSA case examples



- An unsuccessful appeal – learning from DPHHS why a client does not qualify for medically needy care and making a plan to help him spend down assets appropriately
- A successful appeal – establishing the right to Big Sky waiver services by appearing as an authorized representative

Anticipated cases- PHE end



- The COVID-19 public health emergency will likely end by January 2023
- This kicks off a one-year redetermination process for Medicaid eligibility
- Tell patients to update their contact information:
<https://mt.accessgov.com/dphhs/Forms/Page/medicaid/changeofaddress>

Resources



- MontanaLawHelp.org
 - Mtlsa.org
 - Courts.mt.gov (our County Resource guides updated by AmeriCorps)
 - Weekly Helpline updates
 - COVID Specific Services- MLSA's Eviction Intervention Project
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Thank you!



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