

State of Utah
Administrative Rule Analysis
Revised May 2023

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Title No. - Rule No. - Section No.

Rule or Section Number:

R590-259

Filing ID: Office Use Only

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S. 2700 W.	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact persons:		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov

Please address questions regarding information on this notice to the persons listed above.

General Information

2. Rule or section catchline:
R590-259. Dependent Coverage to Age 26
3. Purpose of the new rule or reason for the change:
The rule is being changed in compliance with Executive Order 2021-12. During the review of this rule, the department discovered a number of minor issues that needed to be amended.
4. Summary of the new rule or change:
The majority of the changes are being done to fix style issues to bring the rule text more in line with current rulewriting standards. Other changes make the language of the rule more clear, remove certain definitions that are defined elsewhere, remove a provision about special enrollments that are already provided for in federal law, remove the Penalties section, and update the Severability section to use the department's current language. The changes do not add, remove, or change any regulations or requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature, and will not change how the department functions.
B) Local governments:
There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature, and will not affect small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature, and will not affect non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 31A-2-201	Section 31A-2-212	Section 31A-22-605

Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables):

A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

Official Title of Materials Incorporated (from title page)	
Publisher	

Issue Date	
Issue or Version	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)		
A) Comments will be accepted until:	11/14/2023	
B) A public hearing (optional) will be held:		
Date (mm/dd/yyyy):	Time (hh:mm AM/PM):	Place (physical address or URL):
To the agency: If more space is needed for a physical address or URL, refer readers to Box 4 in General Information. If more than two hearings will take place, continue to add rows.		

9. This rule change MAY become effective on:	11/21/2023
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 63G-3-302, 63G-3-303, and 63G-3-402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> and delaying the first possible effective date.			
Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	09/28/2023

R590. Insurance, Administration.

R590-259. Dependent Coverage to Age 26.

R590-259-1. Authority.

This rule is promulgated by the ~~[insurance-]~~ commissioner pursuant to ~~[Subsections 31A-2-201(3), 31A-2-212(5)(b) and 31A-22-605(4)]~~ Sections 31A-2-201, 31A-2-212, and 31A-22-605.

R590-259-2. Purpose and Scope.

- (1) The purpose of this rule is to clarify ~~[rules-]~~ standards relating to ~~[the-]~~ dependent coverage of ~~[children in the individual and group health benefit plan markets]~~ a child in a health benefit plan.
- (2) This rule applies to ~~[any health insurer that provides individual or group-]~~ an insurer providing a health benefit plan ~~[-coverage].~~

R590-259-3. Definitions.

~~[-----]~~ In addition to the definitions in Sections 31A-1-301 and 31A-30-103, the following definitions shall apply for the purposes of this rule.

- ~~-----~~ (1) "Grandfathered plan coverage" means coverage provided by a health insurer in which an individual was enrolled on March 23, 2010 for as long as it maintains that status in accordance with federal regulations.
- ~~-----~~ (2) "Group health insurance coverage" means, in connection with a group health plan, health insurance coverage offered in connection with such plan.
- ~~-----~~ (3) "Group health plan" means an employee welfare benefit plan as defined in section 3(1) of the Employee Retirement Income Security Act of 1974, ERISA, to the extent that the plan provides medical care, as defined in R590-259-3(9), and including items and services paid for as medical care to employees, including both current and former employees, or their dependents as defined under the terms of the plan directly or through insurance, reimbursement, or otherwise.
- ~~-----~~ (4)(a) "Health benefit plan" means a policy, contract, certificate or agreement offered by an insurer to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services.
- ~~-----~~ (b) "Health benefit plan" includes short term and catastrophic health insurance policies, and a policy that pays on a cost incurred basis, except as otherwise specifically exempted in this definition.
- ~~-----~~ (c) "Health benefit plan" does not include:
 - ~~-----~~ (i) coverage only for accident, or disability income insurance, or any combination thereof;
 - ~~-----~~ (ii) coverage issued as a supplement to liability insurance;
 - ~~-----~~ (iii) liability insurance, including general liability insurance and automobile liability insurance;
 - ~~-----~~ (iv) workers' compensation or similar insurance;
 - ~~-----~~ (v) automobile medical payment insurance;
 - ~~-----~~ (vi) credit only insurance;
 - ~~-----~~ (vii) coverage for on-site medical clinics; and

- _____ (viii) other similar insurance coverage, specified in federal regulations issued pursuant to Pub. L. No. 104-191, under which benefits for medical care are secondary or incidental to other insurance benefits.
- _____ (d) "Health benefit plan" does not include the following benefits if they are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of the plan:
- _____ (i) limited scope dental or vision benefits;
- _____ (ii) benefits for long term care, nursing home care, home health care, community based care, or any combination thereof; or
- _____ (iii) other similar, limited benefits specified in federal regulations issued pursuant to Pub. L. No. 104-191.
- _____ (e) "Health benefit plan" does not include the following benefits if the benefits are provided under a separate policy, certificate or contract of insurance, there is no coordination between the provision of the benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor, and the benefits are paid with respect to an event without regard to whether benefits are provided with respect to such an event under any group health plan maintained by the same plan sponsor:
- _____ (i) coverage only for a specified disease or illness; or
- _____ (ii) hospital indemnity or other fixed indemnity insurance.
- _____ (f) "Health benefit plan" does not include the following if offered as a separate policy, certificate or contract of insurance:
- _____ (i) Medicare supplemental health insurance as defined under section 1882(g)(1) of the Social Security Act;
- _____ (ii) coverage supplemental to the coverage provided under chapter 55 of title 10, United States Code, TRICARE; or
- _____ (iii) similar supplemental coverage added to coverage under a group health plan.
- _____ (5) "Health insurer" means an insurer that offers a health benefit plan.
- _____ (6)(a) "Individual health insurance coverage" means health insurance coverage offered to individuals in the individual market, which includes a health benefit plan provided to individuals through a trust arrangement, association or other discretionary group that is not an employer plan, but does not include short term limited duration insurance.
- _____ (b) For purposes of this subsection, a health insurer offering health insurance coverage in connection with a group health plan shall not be deemed to be a health insurer offering individual health insurance coverage solely because the insurer offers a conversion policy.
- _____ (7) "Individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan.
- _____ (8) "Medical care" means amounts paid for:
- _____ (a) the diagnosis, care, mitigation, treatment or prevention of disease, or amounts paid for the purpose of affecting any structure or function of the body;
- _____ (b) transportation primarily for and essential to medical care referred to in R590-259-3(8)(a); and
- _____ (c) insurance covering medical care referred to in R590-259-3(8)(a) and (b).
- _____ (9) "Participant" adopts the meaning given under section 3(7) of ERISA.
- _____ (10) "Subscriber" means, in the case of individual health insurance contract, the person in whose name the contract is issued.]
- _____ Terms used in this rule are defined in Sections 31A-1-301, 31A-22-611, and 31A-30-103. Additional terms are defined as follows:
- _____ (1) "Child" means an individual who is a son, daughter, stepson, or stepdaughter of an insured.
- _____ (2) "Grandfathered plan" is as defined in 45 CFR 147.140.

R590-259-4. Eligibility for Dependent Coverage to Age 26; ~~Definition of Dependent;~~ Uniformity of Plan Terms.

- _____ (1) A health insurer that ~~[makes available]~~ provides dependent coverage ~~[of children]~~ shall make that coverage available ~~[for children until attainment of]~~ until the end of the month the child turns 26 years of age.
- _____ (2) With respect to a child who has not ~~[attained]~~ turned 26 years of age, ~~[a health]~~ an insurer ~~[shall]~~ may not define a dependent for purposes of eligibility ~~[for dependent coverage of children]~~ other than in the terms of a relationship between a child and the ~~[plan participant, and, in the individual market, primary subscriber]~~ insured.
- _____ (3) ~~[A health insurer shall]~~ An insurer may not deny or restrict coverage for a child who has not ~~[attained]~~ turned 26 years of age based on:
- _____ (a) ~~[based on the presence or absence of]~~ the child's financial dependency ~~[upon the participant, primary subscriber or any other person,];~~
- _____ (b) the child's residency ~~[with the participant and in the individual market the primary subscriber, or with any other person,];~~
- _____ (c) the child's student status ~~[,];~~
- _____ (d) the child's employment ~~[or any combination of those factors; or]~~ status;
- _____ ~~[(b) based on]~~ (e) the child's eligibility for other coverage, except as provided in ~~[R590-259-4(6).]~~ Subsection (5); or
- _____ (f) any combination thereof.
- _____ (4) Nothing in this rule shall be construed to require a health insurer to make coverage available for the child of a child receiving dependent coverage, unless the grandparent becomes the adoptive parent of that grandchild.
- _____ (5) The terms of coverage in a health benefit plan offered by a health insurer providing dependent coverage of children cannot vary based on age except for children who are 26 years of age or older.]
- _____ (4) The dependent coverage may not vary based on age except for a dependent with a disability.
- _____ ~~[(6) For plan years beginning]~~ (5) A group grandfathered plan issued before January 1, 2014, ~~[a group health plan providing group health insurance coverage that is a grandfathered plan and makes available dependent coverage of children]~~ may exclude an adult child who has not ~~[attained]~~ turned 26 years of age ~~[from coverage only]~~ if the adult child is eligible to enroll in an eligible employer-sponsored health benefit plan, as defined in section 5000A(f)(2) of the Internal Revenue Code, other than ~~[the group health]~~ an eligible

employer-sponsored health benefit plan of a parent.

~~R590-259-5. Special Enrollment for Qualifying Events.~~

~~Nothing in this rule shall alter an applicant's ability to obtain health insurance during a special enrollment period, outside of the open enrollment period, resulting from a qualifying event as defined by the Health Insurance Portability and Accountability Act and PPACA.~~

~~R590-259-6. Penalties.~~

~~A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.~~

]

~~R590-259-7~~5. Severability.

~~[If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.]~~If any provision of this rule, Rule R590-259, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: health insurance open enrollment

Date of Enactment or Last Substantive Amendment: December 2, 2014

Notice of Continuation: January 22, 2021

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-22-605