

State of Utah
Administrative Rule Analysis
Revised November 2021

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _x_; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Utah Admin. Code Ref (R no.):	R590-152	Filing ID (Office Use Only)
Changed to Admin. Code Ref. (R no.):	R	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	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 person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R590-152. Health Discount Programs and Value-Added Benefit Rule
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
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 (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
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, and update the Severability section to use the department's current language. The Enforcement Date and Penalties sections are removed because the rule is already in force and penalties are already provided for in statute. 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) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. — Jonathan T. Pike, Insurance Commissioner

6. A) 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	FY2022	FY2023	FY2024
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			
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

B) Department head approval of regulatory impact analysis:

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

Citation Information

7. 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-8a-210	

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. 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*):

	First Incorporation
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	

Issue, or version	
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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*):

	Second Incorporation
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

Public Notice Information

9. 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 (mm/dd/yyyy):	06/14/2022	
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):

10. This rule change MAY become effective on (mm/dd/yyyy): 06/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date (mm/dd/yyyy):	05/02/2022
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R590. Insurance, Administration.

R590-152. Health Discount Programs and Value[-]-Added Benefit Rule.

R590-152-1. Authority.

This rule is promulgated by the commissioner [under 31A-8a-210, which authorizes the commissioner to enforce Chapter 8a and protect the public interest] pursuant to Sections 31A-2-201 and 31A-8a-210.

R590-152-2. Purpose and Scope.

(1) The purpose of this rule is to [describe initial and renewal license procedures, fees, and other authorized charges, required and prohibited practices, advertising and marketing activity, disclosure requirements, provider agreements, dispute resolution, and record keeping] establish standards for:

- (a) a health discount program; and
- (b) a value-added benefit.

(2) This rule applies to[-];

- (a) a person offering, operating, or marketing a health discount program[s, health discount program operators, and health discount program marketers-]; and

[(3) This rule applies to -(b) a value[-]-added benefit provided by a person licensed under;

- (i) Title 31A, Chapter[s] 7, Nonprofit Health Service Insurance Corporations; or
- (ii) Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans.

R590-152-3. Definitions.

[For the purposes of this rule, the commissioner adopts the definitions in Sections 31A-1-301 and 31A-8a-102 and the following] Terms used in this rule are defined in Sections 31A-1-301 and 31A-8a-102. Additional terms are defined as follows:

[(1) "Administration of the health discount program" means the processes to solicit members, enroll members, maintain the membership, resolve disputes with members, disenroll members, and collect or refund fees and other authorized charges.

~~_____ (2) "Authority to do business in this state" means having other applicable licenses as required by statute and operating within the scope of such licenses.~~

~~_____ (3) "Health discount program marketer" means a person or entity, including a private label entity, that markets or distributes a health discount program but may also operate the marketed or distributed health discount program.~~

~~_____ (4) (1) "Private label entity" means an entity that purchases a health discount program from a health discount program operator and issues or markets the [obtained] health discount program under the [private label] entity's name or logo[-]~~

~~_____ (5) "Prominently" means not less than 14 point type or no smaller than the largest type on the page if larger than 12 point type].~~

R590-152-4. [General Information.

~~_____ (1) The commissioner may examine, audit, or investigate the business and affairs of any health discount program operator or a licensed health discount program marketer or any person the commissioner believes may be operating or marketing a health discount program.~~

~~_____ (2) A health discount program, a health discount program operator, or a health discount program marketer that offers an insurance benefit as part of a health discount program or in addition to a health discount program must comply with statutes and rules pertaining to the solicitation, negotiation, and sale of insurance in Utah that are otherwise applicable to the altering of such benefit.~~

R590-152-5. [Licensing (Application, Initial, Renewal).

~~_____ (1) The following must be licensed prior to offering a health discount program:~~

~~_____ (a) a health discount program operator; or~~

~~_____ (b) a health discount program marketer. A licensee licensed under Chapters 7 or 8 does not require a license as a health discount program operator or health discount program marketer when offering valued added benefits as part of their insurance product package.~~

~~_____ (2) The "Application for Health Discount Program Operator or Health Discount Program Marketer" must (1) An application for a health discount program operator or a health discount program marketer shall be complete[d] and submitted with the appropriate fee.~~

~~_____ (3) The commissioner may deny an application from a health discount program operator or a health discount program marketer if the applicant would not be in compliance with Chapter 31A-8a because the applicant, in this or any other jurisdiction, for a matter dealing with a health discount program is (2) An application may be denied if the applicant, in any jurisdiction:~~

~~_____ (a) is under investigation; or~~

~~_____ (b) has been found in violation of a statute or regulation.~~

~~_____ (4) A licensed health discount program operator must notify the commissioner each time a health discount program marketer or private label entity is added or deleted during the annual licensure period.~~

~~_____ (5) Annual licensure period:~~

~~_____ (a) A license issued under this section is for one annual period which expires each December 31st.~~

~~_____ (b) A licensee desiring to continue to do business in this state must renew its license prior to December 31st each year by submitting an Application for Health Discount Program Operator or Health Discount Program Marketer and paying the required fee.]~~

R590-152-[6]5. Fees and Other Authorized Charges.

~~_____ (1) A health discount program operator may provide a discount[s] or free service[s] through a contracted provider[s] to [subscribers-] a member purchaser in exchange for a periodic payment to the program or as a benefit in connection with a membership[-in a particular group].~~

~~_____ (2) A health discount program operator may charge:~~

~~_____ (a) a non-refundable one-time [enrollment-] membership charge; and~~

~~_____ (b) a refundable periodic fee.~~

~~_____ (3) [A health discount program operator that charges fees for a time period-] If a membership is cancelled by a health discount program operator that charges a fee in excess of one month, the health discount program operator shall [must, in the event of cancellation of the membership by the health discount program operator,] make a pro[-]rata refund of the [periodic-] excess fees paid by the [member] purchaser.~~

R590-152-[7]6. Required Practices.

~~_____ (1) A health discount program operator [must-] shall have an active toll-free telephone number for [members-] an enrollee to call.~~

~~_____ (2) [Face to face, paper, telephone, and electronic-] Any communication[with clients or potential clients must-] with a purchaser, a member, or a potential purchaser shall state that the health discount program is a discount plan and not insurance.~~

~~_____ (3) When a health discount program operator or a health discount program marketer[-] markets or sells a health discount program [together-] with any other product that can be purchased separately, including insured benefits, an itemized list [of the fees or premiums-] including each fee and premium for each individual product must be provided in writing to the [client at-] potential purchaser at the time of solicitation.~~

~~_____ (4) Information available online to a [health discount program member via a health discount program operator's or marketer's web page-] member must be updated [no later than-] within 30 days from [a-] the date of the change.~~

R590-152-[8]7. Value[-] Added Benefit.

~~_____ (1) [Any value added benefit must actually exist and a copy of the contract verifying such existence must-] Evidence of a value-added benefit shall be available to the commissioner upon request [to the commissioner].~~

~~_____ (2) [Prior to any-] Before offering [of-] a value[-] added benefit, [a person licensed under Title 31A, Chapter 7 or 8, -] a licensee shall:~~

~~_____ (a) file with the commissioner a value[-] added benefit[s] list that includes the following:~~

~~_____ (i) the insurer's name and address;~~

~~_____ (ii) [the insurer's policy-] each form[- number(s)] to which the value[-] added benefit applies; and~~

~~_____ (iii) a description of [the-] each benefit[s] offered[-]; and~~

~~_____ (b) comply with Sections R590-152-10 and R590-152-11, if providing a [member-] discount card to a member.~~

R590-152-[9]8. Prohibited [p] Practices.

~~_____ (1) A health discount program operator may not make any payment[s] to a provider[s] for:~~

~~_____ (a) participation in the health discount program;~~

~~_____ (b) a capitation [payments-] arrangement;~~

~~_____ (c) a signing fee[s];~~

- (d) a bonus[es]; or
- (e) ~~other~~ any other form[s] of compensation.

(2) A health discount program operator may not offer any insurance benefit[s] unless licensed as an insurance producer and contracted and appointed by the insurer providing the insurance benefit[s].

R590-152-[10]9. Advertising and Marketing.

(1) The format and content of any advertisement shall be ~~sufficiently~~ complete and clear ~~as~~ to avoid deceiving or misleading the reader, viewer, or listener.

(2) An advertisement of any ~~insured~~ insurance product or benefit must comply with ~~applicable provisions of Subsections 31A-23a-102 (12) and (13) and~~;

~~(a) Section 31A-23a-402; and~~

~~(b) Rule R590-130, Rules Governing Advertisements of Insurance.~~

~~(3) [A health discount program operator must approve in writing all advertisements, marketing materials, brochures, web sites and discount cards used by a health discount program marketer marketing a health discount program operator's health discount program.~~

~~(4) All advertisements, marketing materials, brochures, web sites and discount cards used by a health discount program operator and the health discount program operator's health discount program marketer must be available to the commissioner upon request.~~

~~(5) The]A health discount program operator must have an executed written agreement with a health discount program marketer [prior to]before the health discount plan marketer [marketing, promoting, selling, or distributing]markets, promotes, sells, or distributes a health discount program.~~

R590-152-[14]10. Disclosures.

~~(1) [A health discount program operator must provide the disclosures required by Section 31A-8a-205.~~

~~(2) The]A membership card shall prominently state:[-] "This is not health insurance."~~

~~(3) Disclosure (2) In addition to the disclosures required by Section 31A-8a-205, disclosure materials provided to a purchaser or potential purchaser [must]shall include:~~

~~(a) membership materials;~~

~~(b) new [enrollee]enrollment information;~~

~~(c) [a printed list of providers, or access to the health discount program operator's web page, that have agreed by written contract with the health discount program to accept the program]a list of the providers that have agreed in writing to accept the health discount program, whether in print or accessible on the health discount program operator's website;~~

~~(d) a statement that "A health discount program [member]purchaser is responsible for the entire payment of their medical or health care bill after the discount is applied."; and~~

~~(e) the complete terms and conditions of any refund policy.~~

~~(4) A health discount program operator or health discount program marketer [must]shall:~~

~~(a) provide a purchaser a 30-day money[-]back guarantee, which allows the purchaser to terminate the contract and receive a full refund of any periodic fee paid; and~~

~~(b) start the 30-day money-back guarantee period [must commence]when the purchaser receives the membership materials.~~

R590-152-[12]11. Contracts.

(1) A provider agreement between a health discount program operator and a provider network shall require:

(a) the provider network to have a written agreement with each provider in the network authorizing the provider network to contract with a health discount program operator on behalf of the provider; and

(b) the health discount program operator to ~~inform~~ provide each provider within the contracted provider network with information about the health discount program.

(2) A provider agreement between a health discount program operator and another health discount program operator that has contracted with a provider network shall require the contract with the provider network to comply with Subsection (1).

R590-152-[13] Dispute Resolution Procedures.

~~A health discount program operator must:~~

~~(1) file its dispute resolution procedures with the commissioner pursuant to Section 31A-8a-203; and~~

~~(2) comply with its filed dispute resolution procedures.~~

R590-152-14. Penalties.

~~A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.~~

R590-152-15. Enforcement Date.

~~The commissioner will begin enforcing the revised provisions of this rule 45 days from the rule's effective date.~~

R590-152-16.]12. Severability.

~~[If any provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby]If any provision of this rule, Rule R590-152, 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: insurance, medical discount program
Date of Last Change: 2022[January 20, 2011]
Notice of Continuation: November 1, 2017

Authorizing, and Implemented or Interpreted Law: 31A-1-103; 31A-2-201

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