

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.):	R590-199	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:
R590-199. Plan of Orderly Withdrawal Rule Relating to Health Benefit Plans
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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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 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-4-115	

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): 05/31/2022

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): 06/07/2022

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):	04/15/2022
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R590. Insurance, Administration.

R590-199. Plan of Orderly Withdrawal Rule Relating to Health Benefit Plans.

R590-199-1. Authority.

This rule is promulgated by the commissioner pursuant to [~~Subsections 31A-2-201(3) and 31A-4-115(8)~~]Sections 31A-2-201 and 31A-4-115.

R590-199-2. Purpose and Scope.

~~[This rule is drafted for the purposes of maintaining a health benefit plan market that is stable, fair, and efficient for individuals and small employers and ensuring and maintaining increased access for individuals and small employers to health coverage. It promotes an orderly process by which an insurer can elect to nonrenew health benefit plan coverages without unreasonable disruption to the health insurance market.~~

R590-199-3. Applicability and Scope.

~~This rule applies to accident and health insurers](1) The purpose of this rule is to:~~

- ~~(a) maintain a health benefit plan market that is stable and fair;~~
 - ~~(b) ensure and maintain access to health benefit plan coverage; and~~
 - ~~(c) promote an orderly process without causing disruption to the health insurance market when an insurer elects to withdraw or nonrenew health benefit plan coverage.~~
- ~~(2) This rule applies to an insurer offering a health benefit plan.~~

R590-199-[4]3. Definitions.

~~[(1) The definitions in Sections 31A-1-301 and 31A-30-103 apply to this rule.]Terms used in this rule are defined in Sections~~

31A-1-301 and 31A-30-103. Additional terms are defined as follows:

~~(2)~~(1) "Annual ~~[R]renewal [D]date~~" means the annual anniversary of the date ~~[the]~~a policy or plan, under which health insurance benefits are provided, ~~[was]~~is initially issued.

R590-199-~~[5]4~~. Plan of Orderly Withdrawal.

(1) A ~~[covered]~~carrier and each affiliate of a ~~[covered]~~carrier that elects to withdraw or nonrenew coverage under a health benefit plan ~~[in Utah]~~must file a plan of orderly withdrawal with the commissioner ~~[explaining the process of nonrenewal]~~.

~~(2)~~(a) The plan of orderly withdrawal must be filed with the commissioner ~~[at the time advance]~~no later than 30 working days before the notice [is] given under [Subsection 31A-30-107(3)(e) and 31A-30-107.1(3)(e) and must] Subsection 31A-22-618.6(5)(e)(ii) or 31A-22-618.7(3)(e)(ii).

~~(b)~~ The plan of orderly withdrawal shall be accompanied by:

~~(i)~~ a \$50,000 withdrawal fee; or

~~(ii)~~ proof of placement or assumption of all business to another carrier. ~~[This fee is to]~~

~~(c)~~ The fee shall be made payable to the Utah Insurance Department.

(3) The plan of orderly withdrawal ~~[is to]~~shall include the following information:

~~(a)~~ the name and telephone number of the company representative to contact regarding the ~~[nonrenewal]~~withdrawal;

~~(b)~~ a list of all policy forms affected by the withdrawal;

~~(c)~~ the number of group or individual policies, or both, that are currently in force;

~~(d)~~ the number of covered lives, ~~[include]~~including the insured, spouse, and dependents, under ~~[individual]~~each health benefit plan ~~[policies]~~policy form;

~~(e)~~ ~~[number of covered lives, include insured, spouse and dependents, under small employer health benefit plans;~~

~~(f)~~ the number of COBRA or Utah mini-COBRA policies and the number of covered lives for each policy form;

~~(g)~~(f) a copy of the notice required by ~~[Subsections 31A-30-107(3)(e) or 31A-30-107.1(3)(e)]~~Section 31A-22-618.6 or 31A-22-618.7, as applicable;

~~(h)~~(g) the service or coverage areas, indicating the withdrawal area, within the state ~~[, which indicates withdrawal areas]~~;

~~(i)~~(h) a list of all types of ~~[all]~~insurance coverage[s] offered in Utah in the prior year, by line of business, and the premium volume generated ~~[in the prior year]~~;

~~(j)~~(i) any reinsurance ceding arrangements relating to the health benefit plans being ~~[nonrenewed]~~withdrawn;

~~(k)~~(j) a list of all affiliated carriers ~~[as]~~described in ~~[Section]~~Subsection 31A-30-104(4);

~~(l)~~ certification of compliance executed by the president of the company stating that the withdrawing company is in compliance with 31A-30, as applicable, at the time the election to withdraw is filed;

~~(m)~~ loss ratios for each form issued in Utah calculated in compliance with PPACA standards, including a description of all assumptions made;

~~(n)~~(k) if more than 100 covered individuals are being nonrenewed;

~~(o)~~(i) a certified actuarial analysis from a qualified actuary of the impact that the withdrawal ~~[or nonrenewal]~~will have on the individual and ~~[small]~~employer market in Utah; and

~~(p)~~(ii) an actuarial certification from a qualified actuary certifying to the level of liability related to the ~~[policies]~~health benefit plans being nonrenewed;

~~(q)~~(l) any ~~[plans]~~proposal to withdraw or nonrenew any other line of business in Utah in the ~~[future]~~next 12 months;

~~(r)~~ copy of the certificate of authority of the company and all affiliates involved in the withdrawal; and

~~(s)~~ demonstrate ~~(m)~~ a statement that the nonrenewal of any coverage under a health benefit plan will occur on the annual renewal date of each policy or plan;

~~(t)~~ proof that all liabilities relating to the policies that will be nonrenewed are fully satisfied or adequately reserved ~~[,]~~; and

~~(u)~~ an acknowledgement that the company is prohibited from writing new business in the health benefit plan market withdrawn from for a period of five years beginning on the date of discontinuation of the last coverage nonrenewed.

~~(2)~~ Submit two copies of the plan of orderly withdrawal, one copy to be filed and a second set to be returned to you, and a self-addressed return envelope.

~~(3)~~(4) If both the written notice and a complete plan of orderly withdrawal are not received, the partial submission will be returned and ~~[not considered to have been]~~considered not received by the ~~[department]~~commissioner.

~~(4)~~(5) Availability of coverage through a special enrollment period or ~~[a PPACA exchange]~~open enrollment under Section 31A-30-117 is not considered assumption or placement with another carrier.

R590-199-~~[6]5~~. Implementation of Withdrawal.

(1) A ~~[covered]~~carrier and all its affiliates ~~[that elect to withdraw]~~withdrawing from the market ~~[or to nonrenew a health benefit plan issued to covered insureds]~~must provide written notice of the decision to ~~[do so]~~withdraw to all affected insureds and to the insurance commissioner in each state in which an affected insured resides.

(2) ~~[Each insured must be given at least 180 days notice prior to the nonrenewal date.]~~

~~(3)~~ The commissioner is to receive written notice of the decision to withdraw or nonrenew any health benefit plan at least three working days prior to the mailing of the notice to affected covered insureds.

~~(4)~~ The carrier's ~~[must include with the notice to the commissioner its certificate of authority which]~~certificate of authority will be modified to prohibit ~~[the]~~writing ~~[of]~~business from which the carrier has ~~[elected to nonrenew or withdraw from the market]~~withdrawn.

~~[(5) The carrier is prohibited from writing new business in the individual and small employer health benefit plan market for a period of five years beginning on the date of discontinuation of the last coverage not renewed.]~~

~~[(6) A covered-](3) A carrier's affiliates, as [defined-]described in Subsection 31A-30-104(4), may also be required to withdraw, as determined by the commissioner.~~

~~[(7) Each plan submitted to the commissioner must provide that the nonrenewal of any coverage under a health benefit plan will occur on the annual renewal date of each policy or plan.](4) Nonrenewal shall occur on the annual renewal date.~~

R590-199-~~7~~6. Severability.

~~[If any provision or clause of this rule or its application to any person or situation is held invalid, such invalidity may 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 R590-199, 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

Date of Last Change: ~~October 10, 2014~~ 2022

Notice of Continuation: May 4, 2020

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-4-115; 31A-30-106; 31A-30-107

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