

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:

R590-200

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	
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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:

R590-200. Diabetes Treatment and Management

3. Purpose of the new rule or reason for the change:

This rule is being changed to update the rounding methodology for the insulin prescription cap calculation, which will save programming costs for health insurers and provide savings to individuals who purchase insulin. The rule is also being changed to fix a numbering issue in the rule.

4. Summary of the new rule or change:

The change alters the rounding methodology for the insulin prescription cap to round down to the nearest five-dollar increment. It also fixes the rule's numbering scheme, which inadvertently left out Section (4) in a previous amendment.

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 calculations to achieve the insulin prescription cap are all done by the insurer, not the state. The state will not need to take any action as a result of this rule.

B) Local governments:

There is no anticipated cost or savings to local governments. The change to this rule governs the relationship between the state and its licensees, and does not involve local governments in any way.

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no anticipated cost or savings to small businesses. No small businesses will be affected by this rule.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The health insurers operating in Utah — all of which are non-small businesses — will save money on programming costs. However, the amount will vary by insurer depending on each insurer's process and the Department cannot estimate the aggregate savings.

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**):

Other persons will see minimal savings as a result of this change. An insured who purchases insulin will see a savings of \$3.10 to \$3.68 per month on their insulin prescriptions. The Department does not know the number of insulin users in Utah, and so cannot estimate the aggregate savings for these persons.

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

There may be limited compliance costs for affected health insurers. These insurers will need to change their programming methods to accommodate the changes. The Department cannot estimate the impact of these costs because they will depend on each insurer's process. However, the costs are expected to be minimal.

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-22-626	

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	
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(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:	05/31/2024	
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:	06/07/2024
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:	04/09/2024

R590. Insurance, Administration.

R590-200. Diabetes Treatment and Management.

R590-200-1. Authority.

This rule is promulgated by the commissioner pursuant to Sections 31A-2-201 and 31A-22-626.

R590-200-2. Purpose and Scope.

- (1) The purpose of this rule is to establish minimum standards of coverage for diabetes.
- (2) This rule applies to each accident and health insurance policy that provides a health insurance benefit.
- (3) This rule does not prohibit an insurer from requesting additional information to determine eligibility of a claim under the terms of a policy, certificate, or both.

R590-200-3. Definitions.

Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

- (1)(a) "Diabetes" means diabetes mellitus, a common chronic, serious systemic disorder of energy metabolism including a heterogeneous group of metabolic disorders characterized by an elevated blood glucose level.
- (b) The terms "diabetes" and "diabetes mellitus" are synonymous and defined to include:
 - (i) a person using insulin;
 - (ii) a person not using insulin;
 - (iii) an individual with an elevated blood glucose level induced by pregnancy; and
 - (iv) a person with another medical condition or medical therapy that wholly or partially consists of an elevated blood glucose level.
- (c) Diabetes includes an individual with:
 - (i) complete insulin deficiency, or type 1 diabetes;
 - (ii) insulin resistance with partial insulin deficiency, or type 2 diabetes; and
 - (iii) an elevated blood glucose level induced by pregnancy, or gestational diabetes.
- (2)(a) "Diabetes self-management training" means a program designed to help an individual learn to manage their diabetes in an outpatient setting.
 - (b) Self-management training topics include:
 - (i) making lifestyle changes to effectively manage diabetes;
 - (ii) avoiding or delaying the complications, hospitalizations, and emergency room visits associated with diabetes; and
 - (iii) medical nutrition therapy.

(3) "Medical equipment" means non-disposable or durable equipment used to treat diabetes.

(4) "Medical nutrition therapy" means the assessment and therapy of a patient's nutritional status including diet modification, planning, and counseling services furnished by a registered licensed dietitian.

(5) "Medical supplies" means a generally accepted single-use item used to manage, monitor, and treat diabetes, and to administer diabetic specific medication.

R590-200-[5]4. Minimum Standards and General Provisions.

(1) Coverage for diabetes treatment is subject to the deductibles, copayments, out-of-pocket maximums, and coinsurance of the policy.

(2)(a) An accident and health insurance policy that provides a health insurance benefit shall cover diabetes self-management training and patient management, including medical nutrition therapy, when medically necessary and prescribed by a physician.

(b) The diabetes self-management training services must be provided by a diabetes self-management training program:

(i) recognized by the Centers for Medicare and Medicaid Services;

(ii) certified by the Utah Department of Health and Human Services; or

(iii) approved or accredited by a national organization certifying standards of quality in the provision of diabetes self-management education.

(c) A diabetes self-management training program shall be provided upon:

(i) a diagnosis with diabetes;

(ii) a significant change in a diabetes-related condition;

(iii) a change in diagnostic levels; or

(iv) a change in treatment regimen.

(3) An accident and health insurance policy that provides a health insurance benefit shall cover the following when medically necessary:

(a) blood glucose monitors designed for diabetic patients;

(b) blood glucose monitors for the legally blind designed for use with adaptive devices;

(c) test strips for glucose monitors, including test strips cleared by the FDA;

(d) visual reading strips for glucose and ketones;

(e) urine testing strips for glucose and ketones;

(f) lancet devices and lancets for monitoring glycemic control;

(g) insulin, including analog, in either vial or cartridge;

(h) injection aids, including those adaptable to meet the needs of the legally blind;

(i) syringes, including insulin syringes, pen-like insulin injection devices, needles for pen-like insulin injection devices, and other disposable parts required for insulin injection aids;

(j) insulin pumps, including insulin infusion pumps;

(k) medical supplies for use:

(i) with insulin pumps and insulin infusion pumps, including infusion sets, cartridges, syringes, skin preparation, batteries, and other disposable supplies needed to maintain insulin pump therapy; and

(ii) with or without insulin pumps and insulin infusion pumps, including durable and disposable devices for the injection of insulin and infusion sets;

(l) prescription oral agents of each class approved by the FDA for treatment of diabetes, and a variety of drugs, when available, within each class; and

(m) glucagon kits.

(4)(a) No later than June 1 each year, the department shall publish on the department's website at www.insurance.utah.gov:

(i) the price of insulin available under the discount program described in Section 49-20-421;

(ii) the insulin prescription caps for the following calendar year; and

(iii) the average wholesale price of insulin per milliliter, AWP/mL, for each calendar year 2019 and later.

(b) The insulin prescription caps are calculated using data provided by Public Employees Health Plan (PEHP) based on the annual change in the average AWP/mL.

(i) The calculation considers the following initial reference values:

(A) PEHP's average insulin AWP/mL in 2019 of \$40.18, Base AWP/mL;

(B) the 2021 insulin prescription cap in Subsection 31A-22-626(4)(a) of \$30, Base Low Cap; and

(C) the 2021 insulin prescription cap in Subsection 31A-22-626(6)(b) of \$100, Base High Cap.

(ii)(A) The insulin prescription cap is rounded to the nearest dollar.

(B) Effective for plan years on or after January 1, 2025, the insulin prescription cap is rounded down to the nearest multiple of \$5.

(c)(i) The insulin prescription cap formula for years after 2021 for Subsection 31A-22-626(4)(a) is: Year X low cap = (Average AWP/mL for Year X-2 / Base AWP/mL) * (Base Low Cap) rounded to the nearest dollar.

(ii) The insulin prescription cap formula for years after 2024 for Subsection 31A-22-626(4)(a) is rounded down to the nearest multiple of \$5.

(d)(i) The insulin prescription cap formula for years after 2021 for Subsection 31A-22-626(6)(b) is: Year X high cap = (Average AWP/mL for Year X-2 / Base AWP/mL) * (Base High Cap) rounded to the nearest dollar.

(ii) The insulin prescription cap formula for years after 2024 for Subsection 31A-22-626(6)(b) is rounded down to the

nearest multiple of \$5.

(e) The adjusted insulin prescription cap posted on June 1 takes effect for a policy issued or renewed on or after January 1 of the following calendar year.

R590-200-[6]5. Severability.

If any provision of this rule, Rule R590-200, 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 law

Date of Last Change: 2024[~~May 11, 2022~~]

Notice of Continuation: February 25, 2021

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-22-626

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