

State of Utah
Administrative Rule Analysis
Revised June 2022

NOTICE OF PROPOSED RULE

TYPE OF RULE: New ___; Amendment ___; Repeal x; Repeal and Reenact ___

Title No. - Rule No. - Section No.

Rule or Section Number:

R590-232

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 agency.

General Information

2. Rule or section catchline:

R590-232. Authorization for a Health Maintenance Organization to Provide Services as Third Party Administrator of Health Care Benefits

3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

This rule permits a health maintenance organization (HMO) to act as a third-party administrator (TPA) for health care benefits without needing a TPA license. The rule is being repealed because it merely clarifies existing statutory language and is unnecessary because the permission is already given under statute.

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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

The rule is being repealed.

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 provisions of the rule will continue in force under statute.

B) Local governments:

There is no anticipated cost or savings to local governments. The rule applies to the relationship between the Department and certain licensees, and has no bearing on 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 rule applies to the relationship between the Department and HMOs, which are large 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 provisions of the rule will continue in force under statute.

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 rule applies to the relationship between the Department and certain licensees, and has no bearing on any other persons.

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 provisions of the rule will continue in force under statute, and do not have any associated costs.

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	FY2023	FY2024	FY2025
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	FY2023	FY2024	FY2025
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-8-103	

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)	
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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:	11/14/2022	
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):

9. This rule change MAY become effective on:	11/21/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

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 <i>Utah State Bulletin</i> and delaying the first possible effective date.			
Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	09/30/2022

~~**R590. Insurance, Administration.**~~

~~**R590-232. Authorization for a Health Maintenance Organization to Provide Services as Third Party Administrator of Health Care Benefits.**~~

~~**R590-232-1. Authority.**~~

~~_____ This rule is promulgated and adopted pursuant to Subsection 31A-8-103(2) allowing the commissioner to waive provisions of Title 31A that he considers inapplicable to health maintenance organizations, and Section 31A-2-201 giving the commissioner authority to implement the provisions of Title 31A.~~

~~**R590-232-2. Purpose.**~~

~~_____ The purpose of this rule is to authorize a health maintenance organization to provide services as a third party administrator of health care benefits.~~

~~**R590-232-3. Definitions.**~~

~~_____ All definitions in Sections 31A-1-301 and 31A-8-101 are hereby adopted by reference.~~

~~**R590-232-4. Findings.**~~

~~_____ A. The term "organization" includes a health maintenance organization by definition.~~

~~_____ B. Subsection 31A-8-106 provides, "No organization may engage, directly or indirectly, in any business other than that of an organization and business reasonably incidental to that business."~~

~~_____ C. For some time, there has been a question as to whether providing services by a health maintenance organization as a "third party administrator" of health care benefits could be deemed to be the "business . . . of an organization" or at least be deemed to be "business reasonably incidental to that business."~~

~~_____ D. The Commissioner finds that when a health maintenance organization provides services as a third party administrator of health care benefits, that business is, at the very least, "business reasonably incidental to that business" of a health maintenance organization.~~

~~_____ E. In addition, Subsection 31A-8-103(2) provides, "The commissioner may by rule waive other specific provisions of this title that the commissioner considers inapplicable to health maintenance organizations or limited health plans, upon a finding that the waiver will not endanger the interests of: (a) enrollees; (b) investors; or (c) the public."~~

~~_____ F. To the extent the definition of "third party administrator" in Section 31A-1-301 can be read as prohibiting a health maintenance organization from providing services as a third party administrator of health care benefits, and to the extent Chapter 25 of Title 31A can be read as requiring that a health maintenance organization apply for a separate license to provide services as a third party administrator of health care benefits, the commissioner finds that waiving those provisions with respect to health maintenance organizations will not endanger the~~

~~interests of (a) enrollees, (b) investors, or (c) the public, and therefore the commissioner hereby waives those provisions with respect to a health maintenance organization providing third party administrator services of health care benefits.~~

~~R590-232-5. Rule.~~

~~_____ A health maintenance organization may provide services as a third party administrator of health care benefits, and may do so without acquiring a third party administrator license under Chapter 25 of Title 31A.~~

~~R590-232-6. 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.~~

~~KEY: health maintenance organizations~~

~~Date of Enactment or Last Substantive Amendment: December 29, 2004~~

~~Notice of Continuation: November 21, 2014~~

~~Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-202; 31A-21-312; 31A-26-301; 31A-26-303]~~