

State of Utah
Administrative Rule Analysis
 Revised May 2020

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.):	R590-237	Filing No. (Office Use Only)
Changed to Admin. Code Ref. (R no.):	R	

Agency Information

1. Department:		
Agency:	Insurance Department	
Room no.:	3110	
Building:	State Office Building	
Street address:	450 N. State St.	
City, state:	Salt Lake City, UT 84114	
Mailing address:	PO Box 146901	
City, state, zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-538-3803	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
Access to Health Care Providers in Rural Counties
3. Purpose of the new rule or reason for the change (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):
The rule is being amended to update two lists in the rule, remove two definitions, update a code citation, and make clerical changes.
4. Summary of the new rule or change:
The major changes include updates to the lists of independent hospitals and federally qualified health centers in the rule, remove the definitions of "credentialed staff member" and "federally qualified health center" that are no longer necessary, and update citations to the relevant code section, which is now Chapter 31A-45, Managed Care Organizations. Other amendments include minor clerical and style changes.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget. The changes largely update the lists of independent hospitals and federally qualified health centers located in rural areas of Utah. These changes are known in the industry and insurers are already operating in compliance with the changes.
B) Local governments:
There is no anticipated cost or savings to local governments. The changes largely update the lists of independent hospitals and federally qualified health centers located in rural areas of Utah. There are no compliance requirements for local governments in the rule.
C) Small businesses ("small business" means a business employing 1-49 persons):

There is no anticipated cost or savings to small businesses. The changes largely update the lists of independent hospitals and federally qualified health centers located in rural areas of Utah. There are no compliance requirements for small businesses in the rule.

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

There is no anticipated cost or savings to the state budget. The changes largely update the lists of independent hospitals and federally qualified health centers located in rural areas of Utah. These changes are known in the industry and insurers, which are the only non-small businesses affected, are already operating in compliance with the changes.

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 largely update the lists of independent hospitals and federally qualified health centers located in rural areas of Utah. There are no compliance requirements for any persons in the rule.

F) Compliance costs for affected persons:

The changes largely update the lists of independent hospitals and federally qualified health centers located in rural areas of Utah. These changes are known in the industry and insurers, which are the only non-small businesses affected, are already operating in compliance with the changes. There are no compliance costs for any other persons.

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	FY2021	FY2022	FY2023
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

H) Department head approval of regulatory impact analysis:

The head of the Insurance Department, Todd E. Kiser, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

The above analysis represents the Insurance Department's best estimate of the fiscal impact that this rule may have on businesses.

B) Name and title of department head commenting on the fiscal impacts:

Todd E. Kiser, Insurance Commissioner

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 31A-2-201(3)(a)	Subsection 31A-45-501-(8)(c)	

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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	

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. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until (mm/dd/yyyy): 07/15/2020

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): 07/22/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

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	Date (mm/dd/yyyy):	06/01/2020
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R590. Insurance, Administration.

R590-237. Access to Health Care Providers in Rural Counties.

R590-237-1. Authority.

This rule is promulgated pursuant to Subsections ~~31A-2-201(2)~~, 31A-2-201(3)(a)[s] and 31A-~~8-501(7)~~45-501(8)(c) wherein the commissioner is empowered to administer and enforce Title 31A, Insurance Code, and make administrative rules to implement Section 31A-~~8~~45-501.

R590-237-2. Purpose.

The purpose of this rule is to

- (1) identify ~~the counties~~ each county in Utah with a population density of less than 100 people per square mile;
- (2) identify independent hospitals in Utah;
- (3) identify federally qualified health centers in Utah; and
- (4) describe how a ~~health maintenance~~ managed care organization ~~[(HMO)]~~ shall:
 - (a) use the information identifying the counties, independent hospitals, and federally qualified health centers described in (1), (2), and (3) above;~~and~~
 - (b) notify the subscribers, independent hospitals, and federally qualified health centers; and
 - (c) ensure ~~an HMO~~ a managed care organization provides the notice required by Subsection 31A-~~8-501(7)~~45-501(8)(d)(ii).

R590-237-3. Applicability and Scope.

This rule applies to a ~~licensed health maintenance~~ managed care organization[s] as defined in Subsection 31A-~~8-101(8)~~45-102(2).

R590-237-4. Definitions.

In addition to the definitions in Sections 31A-1-301, ~~and~~ 31A-8-101, and 31A-45-102, the following definitions apply ~~to~~ for the purposes of this rule:

- (1) "Board of ~~the~~ directors[;]" ~~for the purpose of this rule,~~ means the local board of directors for the independent hospital that is directly responsible for the daily policy and financial decisions. A board of directors does not include a corporate board of directors for the entity that owns the independent hospital.
- (2) ~~"Credentialed staff member" means a health care provider with active staff privileges at an independent hospital or a federally qualified health center. A credentialed staff member is not required to be an employee of the independent hospital or federally qualified health center.~~
- ~~(3) "Federally Qualified Health Center," as defined in the Social Security Act 42 U.S.C., Sec. 1395x, means an entity which:~~
 - ~~(a)(i) is receiving a grant under Section 330, other than Subsection (h) of the Public Health Service Act 42 U.S.C., 254b; or~~
 - ~~(ii)(A) is receiving funding from a grant under a contract with the recipient of such a grant; and~~
 - ~~(B) meets the requirements to receive a grant under Section 330, other than Subsection (h) of the Public Health Service Act 42 U.S.C. 254b;~~
 - ~~(b) based on the recommendation of the Health Resources and Services Administration within the Public Health Service is determined by the Secretary of Health and Human Services to meet the requirements for receiving such a grant;~~
 - ~~(c) was treated by the Secretary of Health and Human Services as a comprehensive Federally funded health center as of January 1, 1990; or~~
 - ~~(d) is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act, 25 U.S.C. 450f, or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act, 25 U.S.C. 1651.~~
- ~~(4) "Local practice location" means the provider's office where services are rendered, [which is:]~~
 - ~~(a) The local practice location is permanently located within a county with a population density of:~~
 - ~~(i) less than 100 people per square mile prior to December 31, 2000; or~~
 - ~~(ii) less than 30 people per square mile. [; and]~~
 - ~~(b) The local practice location is within 30 miles of paved roads of:~~
 - ~~(i) the place where the enrollee lives or resides; or~~
 - ~~(ii) the location of the independent hospital or federally qualified health center at which the enrollee may receive covered benefits pursuant to Subsections 31A-~~8~~45-501(2) or 31A-45-501(3).~~
- ~~(5) "Policy and financial decisions" means the day-to-day decisions made by the local [B]board of directors with regard to an independent hospital's policy and financial solvency.~~
- ~~(6) "Provider" means a [ny] person who:~~
 - ~~(a) furnishes health care directly to the enrollee; and~~
 - ~~(b) is licensed or otherwise authorized to furnish the health care in [this state]Utah.~~
- ~~(7) "Referral" means:~~
 - ~~(a) the request by a health care provider for an item, service, test, or procedure to be performed by another health care provider;~~
 - ~~(b) the request by a physician for a consultation with another physician; or~~
 - ~~(c) the request or establishment of a plan of care by a physician.~~

~~(8)6~~ "Rural ~~[C]county~~" means a county ~~[as described in Subsection 31A-8-501(2)(b)]~~with a population density of less than 100 people per square mile.

R590-237-5. Rural Counties.

~~(1)~~ For the purposes of Subsection 31A-45-501(8)(c)(ii)(A), the counties with a population density of less than 100 people per square mile are each county in Utah except Cache, Davis, Salt Lake, Utah, and Weber, as reported by the Utah Office of Vital Statistics, updated February 11, 2019, located at <https://opendata.utah.gov/Government-and-Taxes/Population-Density-By-Land-Area-And-County-In-Utah/bzur-buif>.

~~(2)~~ For the purposes of Subsection 31A-~~[8]45-501(2)(b)~~, rural counties where an independent hospital[s] was built prior to December 31, 2000 include ~~[all Utah counties]~~ each county in Utah except Davis, Salt Lake, Utah, and Weber.

~~(2)3~~ For the purposes of Subsection 31A-~~[8]45-501(2)(b)~~, rural counties where an independent hospital[s] was built after December 31, 2000 include ~~[all Utah counties]~~ each county in Utah except Cache, Davis, Salt Lake[-], Utah, Washington, and Weber.

~~(3)4~~ For the purposes of Subsection 31A-~~[8]45-501(5)6(b)(i)~~, non-contracting provider referrals to non-contracting providers are allowed in ~~[all counties]~~ each county in Utah except[-] Cache, Davis, Salt Lake, Utah, Washington, and Weber[-~~counties~~].

R590-237-6. Independent Hospitals.

~~[F]~~For the purposes of 31A-45-501(8)(c)(ii)(B) each of the following ~~[are the]~~is considered an independent hospital[s] ~~that fall under S]~~for the purposes of Subsections 31A-~~[8]45-501(1)(e)~~ and 31A-45-501(2)(b):

~~(1)~~ ~~[Allen Memorial Hospital, Moab, Grand County, Utah]~~

~~(2)~~ ~~[Ashley [Valley]Regional Medical Center, Vernal, Uintah County, Utah;~~

~~(3)2~~ Beaver Valley Hospital, Beaver, Beaver County, Utah;

~~(4)3~~ ~~[Brigham City Community Hospital, Brigham City, Box Elder]~~Blue Mountain Hospital, Blanding, San Juan County, Utah;

~~(5)4~~ ~~[Cache Specialty Hospital, Logan, Cache County, Utah (Subject to the provisions of Subsection 31A-8-501(2))]~~Castleview Hospital, Price, Carbon County, Utah;

~~(6)5~~ Central Valley Medical Center, Nephi, Juab County, Utah;

~~(7)6~~ ~~[Garfield Memorial Hospital, Panguitch, Utah]~~

~~(8)~~ ~~[Gunnison Valley Hospital, Gunnison, Sanpete County, Utah;~~

~~(9)7~~ Kane County Hospital, Kanab, Kane County, Utah;

~~(10)8~~ Milford Valley Memorial Hospital, Milford, Beaver County, Utah;

~~(11)9~~ ~~[Mountain West Medical Center, Tooele, Tooele]~~Moab Regional Hospital, Moab, Grand County, Utah;

~~(12)2~~ San Juan Hospital, Monticello, San Juan County, Utah; and

~~(13)3~~ Uintah Basin Medical Center, Roosevelt, Duchesne County, Utah.

R590-237-7. Federally Qualified Health Centers.

~~[F]~~For the purposes of Subsection 31A-45-501(8)(c)(ii)(C) each of the following ~~[are the]~~is considered a federally qualified health center[s] ~~that fall under S]~~for the purposes of Subsection 31A-~~[8]45-501(3)(b)~~:

~~(1)~~ ~~[Beaver Medical Clinic, Beaver, Beaver]~~Bear Lake Community Health Center, Garden City, Rich County, Utah;

~~(2)~~ Bear River Health Clinic, Tremonton, Box Elder County, Utah;

~~(3)~~ Blanding Family Chiropractic, Blanding, San Juan County, Utah;

~~(4)~~ Blanding Family Practice Community Health Center, Blanding, San Juan County, Utah;

~~(2)5~~ Blanding Family ~~[Practice/Blanding Medical]~~Vision Center, Blanding, San Juan County, Utah;

~~(3)6~~ ~~[Bryce Valley Clinic, Cannonville,]~~Box Elder Community Health Center, Brigham City, Box Elder County, Utah;

~~(7)~~ Brigham City Community Health Center, Brigham City, Box Elder County, Utah;

~~(4)8~~ Carbon Medical Service[s] Association – Helper Clinic, ~~[Carbon]~~Helper, Carbon County, Utah;

~~(5)9~~ ~~[Cireview Clinic, Cireview, Piute]~~Carbon Medical Service Association, Sunnyside, Carbon County, Utah;

~~(6)10~~ ~~[Duchesne Valley Medical Clinic, Duchesne, Duchesne County, Utah]~~

~~(7)~~ Emery Medical Center, Castledale, Emery County, Utah

~~(8)~~ Enterprise Valley Medical Clinic, Enterprise, Washington County, Utah

~~(9)~~ Garfield Memorial Clinic, Panguitch, Garfield County, Utah

~~(10)~~Cedar Community Health Center, Cedar City, Iron County, Utah;

~~(11)~~ Family Healthcare, Cedar City, Iron County, Utah;

~~(12)~~ Green ~~[Valley/]~~River ~~[Clinic]~~Medical Center, Green River, Emery~~[-Grand Counties]~~ County, Utah;

~~(13)11~~ ~~[Halehita Clinic, San Juan County, Utah]~~

~~(12)~~ Hurricane Family Practice Clinic, Hurricane, Washington County, Utah

~~(13)~~ Kamas Health Center, Kamas, Summit County, Utah

~~(14)~~ Kazan Memorial Clinic, Escalante, Garfield County, Utah

~~(15)~~ Long Valley Medical, Kane County, Utah

~~(16)~~ Milford Valley Clinic, Milford, Beaver County, Utah

~~(17)~~Kanosh Community Health Center, Kanosh, Millard County, Utah;

~~(14)~~ Kazan Memorial Clinic, Escalante, Garfield County, Utah;

- ~~(15) Koosharem Community Health Center, Richfield, Sevier County, Utah;~~
~~(16) Montezuma Creek Community Health Center, Montezuma Creek, San Juan County, Utah;~~
~~(17)(8) [Monument Valley Health Center, Monument Valley, Utah~~
~~(19) Navajo Mountain Health Center, San Juan County, Utah~~
~~(20) Wayne County Medical Clinic, Bicknell, Wayne County, Utah]~~Mountainlands Community Health Center, Vernal, Uintah County, Utah;
~~(18) Southwest WCHC Mental Health, Panguitch, Garfield County, Utah;~~
~~(19) Wayne Community Health Center, Hanksville, Wayne County, Utah; and~~
~~(20) Wayne Community Health Center, Bicknell, Wayne County, Utah.~~

R590-237-8. Rural Health Notification.

(1) A ~~[n HMO]~~ managed care organization shall provide ~~[its-]to a subscriber[s-with]~~ the notice required by Subsection 31A-~~[8]45-501~~(~~[7]8~~)(d)(ii) no later than at the time of enrollment or the time the group or individual contract and evidence of coverage are issued and upon request thereafter. The ~~[is]~~ information must be included and easily accessible on the ~~[HMO]~~ managed care organization's website. When a rural county[ies], independent hospital[s], or federally qualified health center[s] changes, the ~~[HMO-]~~ managed care organization shall provide an updated notice to ~~[its-]each~~ affected subscriber[s] within 30 days.

(2) A ~~[n HMO]~~ managed care organization shall provide to ~~[the-]each~~ independent hospital[s] and federally qualified health center[s] in the ~~[HMO-]~~ managed care organization's service area the notice required by Subsection 31A-~~[8]45-501~~(~~[7]8~~)(d)(ii) within 30 days.

R590-237-9. Penalties.

A ~~[n HMO]~~ managed care organization 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.

R590-237-10. ~~[Enforcement Date.~~

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

~~R590-237-11-]Severability.~~

~~[If any provision of this rule or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances may not be affected by it.]If any provision of this rule, R590-237, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule which 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 care providers

Date of Enactment or Last Substantive Amendment: September 7, 2006

Notice of Continuation: August 31, 2016

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-~~[8]45-501~~