

State of Utah
Administrative Rule Analysis
Revised June 2022

NOTICE OF PROPOSED RULE

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

Title No. - Rule No. - Section No.

Rule or Section Number:

R590-239

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:

R590-239. Exemption of Student Health Centers From Insurance Code

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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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, remove the Enforcement Date section, 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) 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-1-103	Section 31A-2-201	

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)	
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:		01/03/2023
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:	01/10/2023
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:	11/4/2022

R590. Insurance, Administration.

R590-239. Exemption of Student Health Centers From Insurance Code.

R590-239-1. Authority.

This rule is promulgated ~~[and adopted]~~ by the commissioner pursuant to ~~[Subsection 31A-1-103(3)(d) and Section 31A-2-204]~~ Sections 31A-1-103 and 31A-2-201.

R590-239-2. Purpose and Scope.

(1) The purpose of this rule is to exempt a student health center[s] established by an institution[s] of higher education from regulation under ~~[the Utah]~~ Title 31A, Insurance Code.

~~[(2) Health]~~ (2)(a) This rule applies to a student health center established by an institution of higher education.

(b) This rule does not exempt health insurance from an insurer made available by an institution to its students ~~[is not exempt from provisions of the Utah]~~ from Title 31A, Insurance Code, under this rule, even if:

(i) use of the institution's student health center is an integral part of the health care coverage offered to the institution's students under the insurer's policy; or

(ii) the health insurance offered to the institution's students requires that initial treatment for any illness or injury be at the institution's student health center.

R590-239-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301 and 31A-8-101. Additional terms are defined as follows:

(1) ~~[All definitions in Section 31A-1-301 are incorporated by reference.~~

(2) "Board" means the ~~[State Board of Regents]~~ Utah Board of Higher Education established in Section 53B-1-~~[403]~~402.

~~[(3)]~~(2) "Eligible recipient" means:

(a) an eligible student;

(b) a spouse of an eligible student;

(c) a child of, dependent of, or child placed for adoption with, an eligible student;

(d) an officer, faculty member, or employee of the institution ~~[s officers, faculty, and employees]~~; or

(e) upon application by the institution or the institution's student health center, ~~[other persons]~~ a person approved by written order of the commissioner.

~~[(4)]~~(3) "Eligible student" is as defined by each institution, but shall, at a minimum, require that the student be enrolled with the institution.

~~[(5)]~~ "Health care provider" means a person who provides health care services.

~~[(6)]~~ "Health care services" means "health care," as defined in Section 31A-1-301.

~~[(7)]~~(4) "Institution" means an institution of higher education or postsecondary educational institute that consists of the

following:

(a) an institution described in Section 53B-1-102; or

(b) an institution of ~~[high-]~~higher education that has been accredited by the Northwest Commission on Colleges and Universities.

(8) "Student health center" means a facility that is operated to provide health care services to an eligible recipient[s]:

(a) by that institution or pursuant to a contract with that institution;

(b) that employs a health care provider[s], or contracts with a health care provider[s, ~~which-~~], that may make a referral[s] to ~~[other-]~~another health care provider[s];

(c) that is funded, at least in part, by payment from one of the following sources, which payment grants access to the student health center during the period ~~[of time for which-]~~the eligible student is registered:

(i) a fee assessed to and paid by each eligible student at registration~~[-, which-]~~; or

(ii) the tuition paid by the eligible student;

(d) that may accept an insurance payment[s], or assist a user[s] in completing a claim[s] form[s] for an insurance claim[s];

and

(e) that may require an eligible recipient[s] to pay;

(i) an additional fee for each time the student health center is visited;

(ii) an additional fee for a specialty service[s];

(iii) an additional fee for medical equipment; or

(iv) an additional fee for medication received at the student health center.

~~[(9) "Utah Insurance Code" means Title 31A, Utah Code Annotated.]~~

R590-239-4. [Supporting Facts]Findings.

~~Pursuant to Subsection 31A-1-103(3)(d), the commissioner makes the following findings.~~

(1) Many institutions ~~[of higher education-]~~establish a student health center[s] to provide ~~[for-]~~limited health care ~~[needs-]~~to an eligible recipient[s]. A student health center arranges for health care services to be provided by employing a health care provider[s] at the student health center, or by contracting with a health care provider~~[s to provide]~~ for health care services at the student health center or ~~[other facilities, which are usually-]~~another facility that may be located in close proximity to the institution's campus. The student health center may also contract with a specialist[s] to come to the student health center on a periodic basis, or to provide a service[s] off-campus when the student health center provides a referral to that specialist.

(2) The operation of the student health center is paid at least in part ~~[either out of-]~~from funds generated by the tuition of an eligible student[s] or from a fee for that express purpose that each eligible student is required to pay~~[at the beginning of the quarter, semester, or school year, usually at the same time tuition and other fees are required to be paid]~~. In return, the eligible student ~~[has the right to receive these-]~~is entitled to limited health care services at the student health center during the ensuing quarter, semester, or school year. ~~[Eligible students-]~~An eligible student usually pays a nominal fee each time they use the facility.

(3) ~~[The-]~~A student health center does not provide all basic health care services required of a health maintenance organization~~[s under the definition of "basic health care services,"]~~ but does enter into arrangements with ~~[at least-]~~some of the persons listed in the definition of a limited health plan to provide health care services to the institution's eligible recipients~~[-, 31A-8-10]~~. ~~[Therefore, while-]~~While a student health center is not ~~[within the definition of-]~~a health maintenance organization, it does come within the definition of a limited health plan. ~~[As such, unless exempted-]~~Unless exempt from regulation by statute or administrative rule, a student health center ~~[is subject to regulation under the-]~~must comply with Title 31A, Insurance Code.

~~[(4) Institutions have-]~~(4) An institution has an interest in providing ~~[their-]~~an eligible student[s] with basic ~~[preventive and remedial-]~~health care ~~[in order-]~~to reduce the possibility that progress toward a degree will be impeded by unattended medical needs. In addition, ~~[institutions have-]~~an institution has an interest in mitigating the potential economic hardships placed on a health care provider[s] directly, and the public in general, from ~~[the institutions'-]~~an institution's eligible students receiving medical services and then not being able to pay for those services.

~~[(5) To meet these-]~~(5) An institution may establish a student health center to meet the basic medical needs of ~~[their-]~~a student[s], and reduce any potential negative impact on a local health care provider[s] and the public~~[-, many institutions have established student health centers]~~. Other than ~~[perhaps-]~~treating a visitor on campus occasionally on an emergency basis, a student health center[s] provides health care services only to an eligible ~~[students at institutions, and, in some cases, to other-]~~student or another eligible recipient[s]. Providing a health care service[s] or arranging for a health care service[s] for a student[s] is not the primary purpose of ~~[institutions of higher education-]~~an institution; it is only incidental to the ~~[institutions'-]~~institution's primary purpose, which is to educate those that matriculate with the institution. ~~[Student-]~~A student health center~~[s are-]~~ is not established to enable the institution~~[s of higher education-]~~ to make a profit from providing health care services at the student health center.

(6) An institution is either a state institution under the direct control of, and supervised by, the Board, or it must be accredited by a regional accreditation organization. ~~[In order to-]~~To be accredited, an institution must meet strict accounting standards, and be able to demonstrate it is financially solid. An institution must therefore comply with the strict accounting and financial requirements of the Board, or of a regional accrediting entity, which would include the need to reflect on the financial statements of the institution the liability for any risks the institution assumes, or costs the institution[s] may incur, for its student health center. Any shortfall in providing health care services at the student health center would become the obligation of the institution. The institution can and must protect itself from financial shortfalls that could cause the providers to be left unpaid, and the students without health care services at the student health center; the institution does this by fixing the institution's liability either by employing the health care providers, or by contracting with health care providers for a fixed fee for the number of hours the health care provider is at

the student health center, regardless of the number of patients~~[/]~~ or students the health care provider might see during that time. Since only limited health care services are provided at the student health center, there is little or no likelihood the institution will need to cover expenses such as major surgery, or extended hospital stays.

R590-239-5. Rule ~~[and Findings]~~ Exempting a Student Health Center From Title 31A, Insurance Code.

~~[(1) Unless exempted from regulation by statute or by this rule, a student health center is a limited health plan, as defined in Chapter 8 of the Utah Insurance Code, and must comply with the provisions of the Utah Insurance Code.~~

~~———— (2) Health insurance made available to an institution's students through an insurer is not exempt from provisions of the Utah Insurance Code under this rule, even if:~~

~~———— (i) use of the institution's student health center is an integral part of the health care coverage offered to the institution's students; or~~

~~———— (ii) the health insurance offered to the institution's students requires initial treatment for any illness or injury be at the institution's student health center.~~

~~———— (3) Pursuant to Subsection 31A-1-103(3)(d)(i), the commissioner finds that a student health center[s] established by [institutions do] an institution does not require regulation for the protection of the interests of the residents of this state and that a student health [centers are] center is exempt from regulation under [the Utah] Title 31A, Insurance Code.~~

R590-239-6. ~~[Enforcement Date]~~

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

~~R590-239-7.] 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 R590-239, 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 exemption

Date of Last Change: April 9, 2007

Notice of Continuation: April 1, 2022

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