

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:

R590-249

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 persons listed above.

General Information

2. Rule or section catchline:

R590-249. Secondary Medical Condition Exclusion

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

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:

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, add a Definitions section, remove the Enforcement Date and Penalties sections, 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	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	Ex 2: Subsection 63G-3-403(3)	

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:		07/17/2023
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:	07/25/2023
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, 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:	06/01/2023

R590. Insurance, Administration.

R590-249. Secondary Medical Condition Exclusion.

R590-249-1. Authority.

This rule is promulgated by the commissioner pursuant to ~~Subsections 31A-2-201(3) wherein the commissioner may adopt rules to implement the provisions of Title 31A and 31A-22-613.5(2)(c) wherein the commissioner shall develop examples of limitations or exclusions of a secondary medical condition]~~Section 31A-2-201.

R590-249-2. Purpose and Scope.

- (1) The purpose of this rule is to establish examples of coverage limitations or exclusions~~[from coverage]~~, including a related secondary ~~[conditions]~~condition as required under Section 31A-22-613.5.
- (2) This rule applies to ~~[all]~~an insurer offering a health benefit plan[s].

R590-249-3. Definitions.

Terms used in this rule are defined in Section 31A-1-301.

R590-249-4. General Instructions.

~~[The]~~An insurer shall provide a clear written statement that discloses [the policy limitations and exclusions]any policy limitation or exclusion, including a related secondary medical condition[s], that [are]is set forth in the policy:

- (1) upon application;
- (2) when requested by the insured; and
- (3) in any materials a carrier is required to provide to an insured, including the Summary of Benefits and Coverage as defined in 45 CFR 147.200.

R590-249-~~4~~5. Examples.

The following are examples of permissible policy limitations or exclusions [examples]and are not all inclusive:

- (1) ~~[charges]~~a charge in connection with reconstructive or plastic surgery that may have a limited benefit[s], such as[s] a chemical peel that does not alleviate a functional impairment;
- (2) ~~[complications]~~a complication relating to services and supplies for, or in connection with~~[-]~~;
 - ~~_____~~ (a) gastric or intestinal bypass[-];
 - ~~_____~~ (b) gastric stapling[- or other -];
 - ~~_____~~ (c) a similar surgical procedure to facilitate weight loss[- or for, or in connection with, -];
 - ~~_____~~ (d) a procedure related to the reversal or revision of [such procedures, -]a procedure in Subsections (2)(a) through (2)(c); or
 - ~~_____~~ (e) any direct complication[s] or consequence[s thereof] of a procedure in Subsections (2)(a) through (2)(d);
- (3) ~~[complications by]~~a complication due to infection from a cosmetic procedure, except in ~~[cases]~~a case of reconstructive surgery:

- or
- (a) when the service is incidental to or follows a surgery resulting from trauma, infection, or other disease[s] of the involved part;
 - (b) related to a congenital disease or anomaly of a covered dependent child that has resulted in functional defect; or
 - (4) ~~[complications]~~ a complication that results from an injury or illness resulting from ~~[active]~~ voluntary participation in an illegal ~~[activities]~~ activity described in Section R590-227-4.

~~R590-249-5. Penalties.~~

~~Any insurer found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to the penalties as provided under Section 31A-2-308.~~

R590-249-6. Enforcement Date.

The commissioner will begin enforcing this rule January 1, 2016.

]

R590-249-~~7~~6. Severability.

~~[If any provision or portion of this rule or the application of it to any person, company or circumstance is for any reason held to be invalid, the remainder of the rule or the applicability of the provision to other persons, companies, or circumstances shall not be affected.]~~If any provision of this rule, Rule R590-249, 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, exclusions

Date of Enactment or Last Substantive Amendment: October 10, 2014

Notice of Continuation: December 21, 2018

Authorizing, and Implemented or Interpreted Law: 31A-22-613.5