

**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:**

**R590-262**

**Filing ID: Office Use Only**

**Agency Information**

<b>1. Department:</b>	Insurance
<b>Agency:</b>	Administration
<b>Room number:</b>	Suite 2300
<b>Building:</b>	Taylorville State Office Building
<b>Street address:</b>	4315 S. 2700 W.
<b>City, state and zip:</b>	Taylorville, UT 84129
<b>Mailing address:</b>	PO Box 146901
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901

**Contact persons:**

<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
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:**

R590-262. Health Data Authority Health Insurance Claims Reporting

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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):**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

<b>Fiscal Cost</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**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-22-614.5	

**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*):

<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Issue Date</b>	
<b>Issue or Version</b>	

**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*):

<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	

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:** **06/14/2023**

**B) A public hearing (optional) will be held:**

<b>On</b> (mm/dd/yyyy):	<b>At</b> (hh:mm AM/PM):	<b>At</b> (place):

**9. This rule change MAY become effective on:** **06/21/2023**

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 *Utah State Bulletin* and delaying the first possible effective date.

<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	<b>05/01/2023</b>
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**R590. Insurance, Administration.**

**R590-262. Health Data Authority Health Insurance Claims Reporting.**

**R590-262-1. Authority.**

This rule is promulgated by the commissioner pursuant to ~~[Subsection 31A-22-614.5(3)(a) to coordinate with the provision of Subsection 26-1-37(2)(b) and Utah Department of Health rules R428-1 and R428-15]~~ Sections 31A-2-201 and 31A-22-614.5.

**R590-262-2. Purpose and Scope.**

(1) ~~[This rule.]~~ The purpose of this rule is to:

~~\_\_\_\_\_~~ (a) ~~establish[es]~~ the requirements for ~~[certain]~~ entities that pay for health care to submit data to the Utah Department of Health ~~[.]~~ and Human Services;

~~\_\_\_\_\_~~ (b) ~~coordinate with:~~

~~\_\_\_\_\_~~ (i) Sections 26-1-37 and 26-33a-106.1; and

~~\_\_\_\_\_~~ (ii) Rules R428-1 and R428-15;

~~\_\_\_\_\_~~ ~~[(2) This rule allows.]~~ (c) ~~allow~~ the data to be shared with the state's designated secure health information master ~~[index person-]patient~~ index, Clinical Health Information Exchange (cHIE), to be used:

~~\_\_\_\_\_~~ ~~[(a)]~~ (i) in compliance with data security standards established by:

~~\_\_\_\_\_~~ ~~[(+)]~~ (A) the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936; and

~~\_\_\_\_\_~~ ~~[(+)]~~ (B) the electronic commerce agreements established in a business associate agreement;

~~\_\_\_\_\_~~ ~~[(b) for the purpose of.]~~ (ii) ~~for~~ coordination of health ~~[benefit plans]~~ insurance benefits; and

~~\_\_\_\_\_~~ ~~[(c)]~~ (iii) for the enrollment data elements identified in ~~[Utah Administrative-]Rule R428-15[.]~~ ~~Health Data Authority Health Insurance Claims Reporting~~.

~~\_\_\_\_\_~~ (3)(a) This rule applies to an insurer offering:

~~\_\_\_\_\_~~ (i) a health benefit plan; or

~~\_\_\_\_\_~~ (ii) a dental plan.

~~\_\_\_\_\_~~ (2) This rule applies to an insurer offering or administering health insurance, including a self-funded plan that opts-in under Section R590-262-7.

~~\_\_\_\_\_~~ ~~[(b)]~~ (3) This rule does not apply to:

~~\_\_\_\_\_~~ ~~[(+)]~~ (a) an insurer that, as of the first day of the reporting period:

~~\_\_\_\_\_~~ (A) ~~covers~~ fewer than 2,500 individual Utah residents; ~~or~~

~~\_\_\_\_\_~~ (B) provides administrative services for fewer than 2,500 individual Utah residents covered under self-funded employee plans;

~~\_\_\_\_\_~~ (ii) a fully insured employer group or self-funded employee plan whose primary place of business is outside the state of Utah and no more than 25% of the employees are residents of Utah;

~~[(iii)](b)~~ a long-term care insurance policy;~~[-or]~~  
~~[(iv)](c)~~ an income replacement policy~~[-]; or~~  
~~[(e) Except]~~~~(d) except~~ as provided in Subsection ~~[(4), this rule does not require a person to provide information concerning~~  
~~](2)(c)~~, a self-funded employee welfare plan.

(4)(a) The submission of ~~[health care claims-]~~data by an insurer on behalf of a self-funded ~~[employee-]~~plan is considered mandatory if ~~[and only if-]~~the self-funded ~~[employee plan-]~~employer opts-in under Section R590-262-7.

(b) An insurer is not obligated to submit data on behalf of a self-funded ~~[employee-]~~plan that opts-out or fails to respond to an opt-in request~~[s]~~ required in Section R590-262-7.

### **R590-262-3. Definitions.**

~~[In addition to the definitions in Section 31A-1-301, the following definitions shall apply for the purpose of this rule:~~

~~(1) "Claim" means a request or demand on an insurer for payment of a benefit.~~

~~(2) ]Terms used in this rule are defined in Sections 31A-1-301 and 26-33a-102. Additional terms are defined as follows:~~

~~(1) "[Health care claims data]~~Data" means information consisting of, or derived directly from, ~~[member-]~~enrollment, medical claims, dental claims, and pharmacy claims that this rule requires an insurer to report.

~~[(3) "Insurer" means:]~~(2) "Insurer," for purposes of this rule, means:

~~(a) a person engaged in the business of offering [a health benefit plan or a dental plan, including a business under an administrative services organization or administrative services contract arrangement]~~health insurance;

~~(b) a third[-]party administrator that [collects premiums or-]settles claims for;~~

~~(i) health [care-]insurance policies; or~~

~~(ii) a self-funded employee welfare benefit plan if the self-funded plan opts-in under Section R590-262-7;~~

~~(c) a governmental plan as defined in Section 414(d), Internal Revenue Code;~~

~~(d) a non-electing church plan as described in Section 410[-](d), Internal Revenue Code; or~~

~~(e) a licensed professional employer organization that is acting as an administrator of a health [care-]insurance policy.~~

~~[(4)]~~(3) "Office" means [the Office of Health Care Statistics within the Utah Department of Health, which serves as staff to the Utah Health Data Committee]the Healthcare Information and Analysis Programs within the Department of Health and Human Services Division of Data, Systems, and Evaluation.

~~[(5)]~~(4) "Reporting period" means a calendar year.

~~[(6)]~~(5)(a) "Self-funded [employee-]plan" means:

~~(i) an employee welfare benefit plan as defined in 29 U.S.C. Section 1002(1) whose health coverage is provided other than through an insurance policy[-]; and~~

~~(ii) the plan has opted-in under Section R590-262-7.~~

~~(b) Self-funded [employee-]plan does not include:~~

~~(i) a governmental plan as defined in Section 414[-](d), Internal Revenue Code;~~

~~(ii) a non-electing church plan as described in Section 410[-](d), Internal Revenue Code; or~~

~~(iii) the Public Employees' Benefit and Insurance Program created in Section 49-20-103.~~

~~[(7)]~~(6) "Technical specifications" means the technical specifications document published by the Health Data Committee describing the variables and formats of the data that are to be submitted as well as submission directions and guidelines.

### **R590-262-4. Reporting Requirements.**

~~(1) [Each-]An insurer shall submit [enrollment, medical claims, and pharmacy-]the data described in this rule and Section R428-15-3[-and R590-262-5, where-], if Utah is the patient's primary residence, for a service[s] provided in or out of [the state of] Utah.~~

~~(2) [Each-]An insurer shall permit the Utah Department of Health and Human Services to redisclose the enrollment and eligibility information with the state designated entity for [the purpose of-]coordination of benefits.~~

~~(3) [Each-]An insurer shall submit monthly [health care claims data. Each monthly submission is due-]data no later than the last day of the following month.~~

### **R590-262-5. Reporting Process.**

~~(1) Submission procedures and guidelines are described in detail in the technical specifications published by the Health Data Committee.~~

~~(2) The [health care claims-]data shall be formatted and submitted according to the technical specifications in Subsection (1).~~

### **R590-262-6. Required Data Elements.**

~~(1) The enrollment, medical claims, dental claims, and pharmacy data elements are described in detail in the technical specifications published by the Health Data Committee. Each insurer shall submit data for all fields contained in the submission specifications if the data are available to the insurer.~~

~~(2) Each insurer must submit the enrollment files, provider files, professional medical claims, institutional medical claims, and pharmacy claims data elements as required in R428-15-]~~

~~(1) An insurer shall submit the data required by Rule R428-15 and the Utah All-Payer Claims Database Data Submission Guide if the data are available to the insurer.~~

~~(2) The Utah All-Payer Claims Data Submission Guide is available on the Department of Health and Human Services~~

website at <https://healthcarestats.utah.gov>.

#### **R590-262-7. Voluntary Opt-In for a Self-Funded [Employee-]Plan[s].**

(1)(a) ~~[Each-]An~~ insurer providing claim administration services for ~~[an employer who maintains-]a~~ self-funded ~~[employee]~~ plan shall provide ~~[an-]the employer for the self-funded plan~~ a copy of the APCD Self-funded Employee Health Plan Opt-In form ~~[for purposes of determining whether an-]~~, available on the department's website, <https://insurance.utah.gov>, to determine if the employer agrees to opt-in to submission of its self-funded ~~[employee-]plan's [health care claims-]data~~ as described in this rule.

(b) An insurer may use a form ~~[that they have-]the insurer has~~ developed for multi-state use instead of the form referenced in Subsection (1)(a) if the form is substantially similar and is approved in advance by the ~~[Office-]office~~ ~~[in advance]~~.

(c) ~~[Each-]An~~ insurer shall provide the APCD Self-funded Employee Health Plan Opt-In form~~[-~~

~~\_\_\_\_\_ (i) by December 15, 2016 for existing clients; or~~

~~\_\_\_\_\_ (ii) ] within 15 days after claims administration services are retained and it is determined the employer meets the requirements of this section[-, for clients retained after December 1, 2016].~~

(2)(a) Except as provided in Subsection~~s (b) and~~ (c), an opt-in is effective for the reporting period in which it is signed and all future reporting periods.

~~\_\_\_\_\_ (b) An employer may not opt-in for a partial reporting period.~~

~~[-\_\_\_\_\_ (b) An opt-in signed by an employer and received by an insurer before March 1, 2017 shall be effective for the claims adjudicated in 2016 and not previously submitted to the Office, if otherwise required by this rule.]~~

(c) An employer that has opted-in may opt-out for subsequent reporting periods by notifying the insurer in writing at least 30 days before the beginning of the next reporting period.

(3) For a self-funded ~~[employee-]plan~~ whose employer has made an affirmative election for the submission of ~~[health care claims-]data~~, the insurer shall~~[-~~

~~\_\_\_\_\_ (a) ] include the self-funded [employee-]plan data as part of the insurer's data submission otherwise required by this rule[-; and~~

~~\_\_\_\_\_ (b) for plans that opt in before March 1, 2017 as provided in Subsection (2)(b), include claims adjudicated in 2016 that were not previously submitted to the Office].~~

(4) ~~[Each-]An~~ insurer shall file with the ~~[Office-]office~~, annually by January 31 of each year, the following for the prior calendar year:

(a) a list of ~~[the-]self-funded [employee-]plans~~ whose employer made an affirmative election for the submission of ~~[their health care claim-]data~~;

(b) a list of employers who previously filed an opt-in request and have elected to opt-out for future reporting periods as provided under Subsection (2)(c);~~[-and]~~

(c) a certification from an officer of the insurer that the insurer has taken reasonable efforts to provide the form to all known required employers; and

(d) a list identifying the employers to whom the form was provided and their contact information.

(5) The APCD Self-funded Employee Health Plan Opt-In form is for use only with self-funded ~~[employee-]plans~~ and does not affect the mandatory reporting otherwise required by this rule.

(6) Nothing in this section requires an insurer to submit data for claims processed before the insurer was contracted to provide services.

#### **R590-262-8. Third-party Contractors.**

The ~~[Office-]office~~ may contract with a third party to collect and process the ~~[health care claims-]data~~ and ~~[will-]shall~~ prohibit ~~[it-]the third party~~ from using the data in any way ~~[but those-]not~~ specifically designated in the scope of work.

#### **R590-262-9. Insurer Registration.**

~~[Each-]An~~ insurer shall register with the ~~[Office-]office~~ by completing the registration ~~[online at <http://health.utah.gov/hda/apd/>-]on the office's website, <https://stats.health.utah.gov/>~~, no later than 30 days after becoming subject to this rule and annually thereafter by no later than September 1.

#### **R590-262-10. Testing of Files.**

~~[Insurers that become-]An insurer that becomes~~ subject to this rule shall submit to the ~~[Office-]office~~ a dataset for determining compliance with the standards for data submission no later than 90 days after the first date of becoming subject to the rule.

#### **R590-262-11. Rejection of Files.**

~~[The Office-](1) The office~~ or its designee may reject and return any data submission that fails to conform to the submission requirements.~~[-Paramount among submission requirements are: First Name, Last Name, Member ID, Relationship to Subscriber, Date of Birth, Address, City, State, Zip Code, Sex, which are key data fields that the insurer must submit for each enrolled member and claim.-]~~

~~\_\_\_\_\_ (2) An insurer whose submission is rejected shall resubmit the data in the appropriate, corrected format to the [Office]office, or its designee, within ten state business days of notice that the data does not meet the submission requirements.~~

**R590-262-12. Replacement of Data Files.**

(1) An insurer may replace a complete dataset submission if no more than one year has passed since the end of the month in which the file was submitted.~~[-However, the Office]~~

(2) The office may allow a later submission if the insurer can establish exceptional circumstances for the replacement.

**R590-262-13. Provider Notification.**

(1) The following notification ~~[must]~~ shall be provided to a person that receives shared data~~[5]~~: "This shared data is provided for informational purposes only. Contact the insurer for current, specific eligibility, or benefits coverage determination."

(2) The notification in this ~~[Section]~~ section shall be provided in coordination with provider participation in the master ~~[index]~~ patient index and the cHIE programs.

**R590-262-14. Limitation of Liability.**

(1) A person furnishing information ~~[of the kind]~~ described in this rule is immune from liability and civil action if the information is furnished to or received from:

(a) the commissioner~~[-of the Insurance Department]~~, the executive director of the Utah Department of Health and Human Services, or ~~[their]~~ employees or representatives of the Utah Insurance Department or the Utah Department of Health and Human Services;

(b) federal, state, or local law enforcement or regulatory officials or their employees or representatives; or

(c) the insurer that issued the policy connected with the data set.

(2) As provided in Section 26-25-1, an~~[y]~~ insurer that submits data pursuant to this rule cannot be held liable for having provided the required information to the ~~[Office]~~ office.

**R590-262-15. Exemptions and Extensions.**

(1) The ~~[Office]~~ office may grant ~~[exemptions or extensions]~~ an exemption or extension from reporting requirements in this rule under certain circumstances.

(2) The ~~[Office]~~ office may grant an exemption from a reporting requirement in this rule to an insurer when the insurer demonstrates that compliance imposes an unreasonable cost.

(a)(i) An insurer may request an exemption from any particular requirement or set of requirements of this rule.

(ii) The insurer must submit a request for exemption no less than 30 calendar days before the date the insurer would have to comply with the requirement.

(b)(i) The ~~[Office]~~ office may grant an exemption for a maximum of one calendar year.

(ii) An insurer wishing an additional exemption must submit an additional, separate request.

(3) The ~~[Office]~~ office may grant an extension from a reporting requirement in this rule to an insurer when the insurer demonstrates that technical or unforeseen difficulties prevent compliance.

(a)(i) An insurer may request an extension for any deadline required in this rule.

(ii) For each deadline for which the insurer requests an extension, the insurer must submit its request no less than seven calendar days before the deadline in question.

(b)(i) The ~~[Office]~~ office may grant an extension for a maximum of 30 calendar days.

(ii) An insurer wishing an additional extension must submit an additional, separate request.

(4) ~~[The]~~ An insurer requesting an extension or exemption shall include:

(a) ~~[The]~~ the insurer's name, mailing address, telephone number, and contact person;

(b) the dates the exemption or extension is to start and end;

(c) a description of the relief sought, including reference to specific sections or language of the requirement;

(d) a statement of facts, reasons, or legal authority in support of the request; and

(e) a proposed alternative to the requirement or deadline.

~~**R590-262-16. Penalties.**~~

~~A person found to be in violation of this rule shall be subject to penalties as provided in Section 31A-2-308.~~

~~**R590-262-17. Enforcement Date.**~~

~~The commissioner will begin enforcing this rule upon the rule's effective date.~~

~~**R590-262-[48]16. Severability.**~~

~~[If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.]~~ If any provision of this rule, Rule R590-262, 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 claims reporting**

**Date of Last Change: March 10, 2017**

**Notice of Continuation: March 3, 2022**

**Authorizing, and Implemented or Interpreted Law: 31A-22-614.5(3)(a)**