

State of Utah
Administrative Rule Analysis
Revised May 2024

NOTICE OF SUBSTANTIVE CHANGE

TYPE OF FILING: Amendment

Rule or Section Number:

R590-262

Filing ID: Office Use Only

Date of Previous Publication (Only for CPRs):

Click or tap to enter a date.

Agency Information

1. Title catchline:	Insurance, Administration	
Building:	Taylorsville State Office Building	
Street address:	4315 S. 2700 W.	
City, state	Taylorsville, UT	
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:
R590-262. Health Data Authority Health Insurance Claims Reporting
3. Purpose of the new rule or reason for the change:
The rule is being amended to update several code citations due to changes in the state code, add precision to certain terms, and other clerical changes.
4. Summary of the new rule or change:
Several provisions of this rule cite provisions of the Utah Code that were updated into Title 26B, Utah Health and Human Services Code; these outdated citations are being updated to point to the correct provisions. Other changes add precision when referring to a "state funded employee health plan", update a link to a website, and make other clerical changes.

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	FY2025	FY2026	FY2027
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	FY2025	FY2026	FY2027
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 the Insurance Department, 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 or updates 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 or updates 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: 10/15/2024

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: 10/22/2024

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

Agency head or designee and title: Steve Gooch, Public Information Officer **Date:** 08/23/2024

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 Sections 31A-2-201 and 31A-22-614.5.

R590-262-2. Purpose and Scope.

(1) The purpose of this rule is to:

(a) establish the requirements for 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]~~26B-8-411 and ~~[26-33a-106.1]~~26B-85-504; and

(ii) Rules R428-1 and R428-15;

(c) allow the data to be shared with the state's designated secure health information master patient index, Clinical Health Information Exchange (cHIE), to be used:

(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;

(ii) for coordination of health insurance benefits; and

(iii) for the enrollment data elements identified in Rule R428-15.

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

(3) This rule does not apply to:

(a) an insurer that, as of the first day of the reporting period, covers fewer than 2,500 individual Utah residents;

(b) a long-term care insurance policy;

(c) an income replacement policy; or

(d) except as provided in Subsection (2)(c), a self-funded employee ~~[welfare-]~~health plan.

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

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

R590-262-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301 and ~~[26-33a-102]~~26B-8-501. Additional terms are defined as follows:

(1) "Data" means information consisting of, or derived directly from, enrollment, medical claims, dental claims, and pharmacy claims that this rule requires an insurer to report.

(2) "Insurer," for purposes of this rule, means:

(a) a person engaged in the business of offering health insurance;

(b) a third-party administrator that settles claims for:

(i) health insurance policies; or

(ii) a self-funded employee ~~[welfare-benefit-]~~health plan if the employer of the self-funded employee health 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 insurance policy.

(3) "Office" means the Healthcare Information and Analysis Program[s] within the Utah Department of Health and Human Services Division of Data, Systems, and Evaluation.

(4) "Reporting period" means a calendar year.

(5)(a) "Self-funded employee health 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 health 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.

(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) An insurer shall submit the data described in this rule and Section R428-15-3, if Utah is the patient's primary residence, for a service provided in or out of Utah.

(2) 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 coordination of benefits.

(3) An insurer shall submit monthly 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 data shall be formatted and submitted according to the technical specifications in Subsection (1).

R590-262-6. Required Data Elements.

(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 Database Data Submission Guide is available on the Utah Department of Health and Human Services website at <https://healthcarestats.utah.gov>.

R590-262-7. Voluntary Opt-In for a Self-Funded Employee Health Plan.

(1)(a) An insurer providing claim administration services for a self-funded employee health plan shall provide the employer for the self-funded employee health plan a copy of the APCD Self-funded Employee Health Plan Opt-In [~~form~~]Form, 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 health plan's data as described in this rule.

(b) An insurer may use a form 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.

(c) An insurer shall provide the APCD Self-funded Employee Health Plan Opt-In [~~form~~]Form within 15 days after claims administration services are retained and it is determined the employer meets the requirements of this section.

(2)(a) Except as provided in Subsection (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.

(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 health plan whose employer has made an affirmative election for the submission of data, the insurer shall include the self-funded employee health plan data as part of the insurer's data submission otherwise required by this rule.

(4) An insurer shall file with the office, annually by January 31 of each year, the following for the prior calendar year:

(a) a list of self-funded employee health plans whose employer made an affirmative election for the submission of 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);

(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~~]Form is for use only with self-funded employee health 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 may contract with a third party to collect and process the data and shall prohibit the third party from using the data in any way not specifically designated in the scope of work.

R590-262-9. Insurer Registration.

An insurer shall register with the office by completing the registration on the office's website, [~~<https://stats.health.utah.gov/>~~]<https://healthcarestats.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.

An insurer that becomes subject to this rule shall submit to the 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.

- (1) The office or its designee may reject and return any data submission that fails to conform to the submission requirements.
- (2) An insurer whose submission is rejected shall resubmit the data in the appropriate, corrected format to the 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.
- (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 shall be provided to a person that receives shared data: "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 shall be provided in coordination with provider participation in the master patient index and the cHIE programs.

R590-262-14. Limitation of Liability.

- (1) A person furnishing information described in this rule is immune from liability and civil action if the information is furnished to or received from:
 - (a) the commissioner, the executive director of the Utah Department of Health and Human Services, or 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 ~~[26-25-4]~~26B-1-229, an insurer that submits data pursuant to this rule cannot be held liable for having provided the required information to the office.

R590-262-15. Exemptions and Extensions.

- (1) The office may grant an exemption or extension from reporting requirements in this rule under certain circumstances.
- (2) The 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 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 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 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) An insurer requesting an extension or exemption shall include:
 - (a) 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. Severability.

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: June 21, 2023

Notice of Continuation: March 3, 2022

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