

NOTICE OF  
PROPOSED RULE AMENDMENT

- ⌘ The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301 and Subsection 53C-1-201(3)(c).
- ⌘ Please address questions regarding information on this notice to the agency.
- ⌘ The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- ⌘ The full text of all rule filings may also be inspected at the Office of Administrative Rules.

Agency Information

1. Agency: Insurance - Administration  
 Room no.: 3110  
 Building: STATE OFFICE BLDG  
 Street address 1: 450 N MAIN ST  
 Street address 2:  
 City, state, zip: SALT LAKE CITY UT 84114-1201  
 Mailing address 1: PO BOX 146901  
 Mailing address 2:  
 City, state, zip: SALT LAKE CITY UT 84114-6901

Contact person(s):

Name:	Phone:	Fax:	E-mail:
Steve Gooch	801-538-3803	801-538-3829	sgooch@utah.gov

(Interested persons may inspect this filing at the above address or at DAR during business hours)

Rule Information

DAR file no: 40891 Date filed: 10/14/2016 03:29 PM  
 State Admin Rule Filing Key: 158031  
 Utah Admin. Code ref. (R no.): R 590 - 262 -  
 Changed to Admin. Code ref. (R no.): - -

Title

2. Title of rule or section (catchline):  
 Health Data Authority Health Insurance Claims Reporting

Notice Type

3. Type of notice: Amendment

Rule Purpose

4. Purpose of the rule or reason for the change:  
 The proposed rule changes adopt a process to allow a self-funded employer plan to affirmatively select to provide health care claim data to Utah's all payer claim database (APCD).

Response Information

5. This change is a response to comments by the Administrative Rules Review Committee.  
 No

Rule Summary

6. Summary of the rule or change:  
 Prior to the Supreme Court's decision in Gobeille v Liberty Mutual Ins. Co. issued this last March, insurers and third-

party administrators were required to submit health care claim data for all fully insured and employer self-funded plans to Utah's APCD. After the Court's decision, Utah's rule was revised to remove the mandatory reporting requirements for the employer self-funded plans, see R590-262-2(3)(c). To be able to continue to collect self-funded employer data, the proposed rule changes require an insurer and third-party administrator to provide an employer of a self-funded health plan a form that allows an employer to instruct the plan administrator to continue to submit data to the APCD.

#### Aggregate Cost Information

##### 7. Aggregate anticipated cost or savings to:

###### A) State budget:

Affected: No

Because the proposed amendments apply to health insurers and third-party administrators, the changes to this rule do not have an anticipated cost or savings to the state budget.

###### B) Local government:

Affected: No

Because the proposed amendments only apply to health insurers and third-party administrators, there is no cost impact to local governments.

###### C) Small businesses:

Affected: No

("small business" means a business employing fewer than 50 persons)

The proposed amendments apply to health insurers and third-party administrators, and some third-party administrators may be a small business. The impact will be minimal. The rule changes require a health insurer or third-party administrator to provide a document to a self-funded employer client. If the client chooses to submit their data to the All Payer Claim Database (APCD), the health insurer or third-party administrator would then be required to submit the data. The applicable data is currently being submitted for all fully insured commercial health insurance. It was also being submitted for self-funded employer plans up until March 2016 when the Supreme court decided such entities were not required to provide the data. However, the decision did not bar an employer from voluntarily providing such data to the APCD. This rule sets forth a process for self-funded employers to voluntarily provide data.

###### D) Persons other than small businesses, businesses, or local government entities:

Affected: No

("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency)

The proposed amendments apply to health insurers and third-party administrators. The impact will be minimal. The rule changes require a health insurer or third-party administrator to provide a document to a self-funded employer client. If the client chooses to submit their data to the All Payer Claim Database (APCD), the health insurer or third-party administrator would then be required to submit the data. The applicable data is currently being submitted for all fully insured commercial health insurance. It was also being submitted for self-funded employer plans up until May 2016 when the Supreme court decided such entities were not required to provide the data. However, the decision did not bar an employer from voluntarily providing such data to the APCD. This rule sets forth a process for self-funded employers to voluntarily provide data.

#### Compliance Cost Information

##### 8. Compliance costs for affected persons:

There should only be minimal costs due to the requirement to provide a client a single-page opt-in form for an affirmative election. There should not be any additional compliance costs for the submission of data because the information had been required to be submitted until March 2016.

#### Department Head Comments

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

There are no anticipated costs or savings to any businesses. Other than providing a client an opt-in form, the updates are already an industry standard, so the requirements are already in force with affected entities.

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

Todd E. Kiser, Insurance Commissioner

## Citation Information

10. 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) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :  
 Section 31A-22-614.5(3)(a)

## Incorporated Materials

11. This rule adds, updates, or removes the following title of materials incorporated by reference (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank) :

Official Title of Materials Incorporated (from title page): Publisher: Date Issued: Issue, or version: ISBN Number: ISSN Number: Cost of Incorporated Reference: Adds, updates, removes:
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## Comments

12. 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 5:00 p.m. on (mm/dd/yyyy) : 12/01/2016
- B) A public hearing (optional) will be held:
- |                  |                   |   |
|------------------|-------------------|---|
| On (mm/dd/yyyy): | At (hh:mm AM/PM): | At (place):   |
| 11/09/2016       | 01:00 PM          | 450 N. State St., State Office Building Room 3112, Salt Lake City, UT 84114 |

## Proposed Effective Date

13. This rule change may become effective on (mm/dd/yyyy): 12/08/2016
- NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After a minimum of seven days following the date designated in Box 12(A) above, 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.

## Indexing Information

14. Indexing information - keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")):  
 health insurance claims reporting

## File Information

15. Attach an RTF document containing the text of this rule change (filename):  
 There is a document associated with this rule filing.

## 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 Authorization

Agency head or designee, and title:	Steve Gooch Information Specialist	Date (mm/dd/yyyy): 10/14/2016
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