

State of Utah
Administrative Rule Analysis
Revised June 2021

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _x_; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Utah Admin. Code Ref (R no.):	R590-267	Filing ID (Office Use Only)
Changed to Admin. Code Ref. (R no.):	R	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	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 person(s):		
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:
R590-267. Personal Injury Protection Relative Value Study
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The change updates the conversion factors and publications for use in 2022 and 2023.
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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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 change adds conversion factors and publications for physicians, dentists, and chiropractors to use when determining the reasonable value of services provided to patients on or after January 1, 2022, and removes the factors and publications that were to be used through 2019.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The list price for the RVP 2021 is \$1,000 and for the 2021 RVD is \$600. The Department has arranged a 50% discount for purchasers with a Utah address. The Department will be required to purchase two electronic copies of the RVP 2021 at \$600 each and two electronic copies of the RVD 2021 at \$300 each because these publications are incorporated by reference. One copy will be maintained by the Department and one copy will be maintained by the Division of Administrative Rules per rulemaking requirements. The state budget includes an annual appropriation of \$119,000 per year for the Relative Value Study. Estimated cost to State Government: \$119,000 for state budget appropriations + 2 purchases of RVP (\$500) + 2 purchases of RVD (\$300) = \$120,600.
B) Local governments:
There will be no cost or savings to local government. The rule covers the method by which providers determine the reasonable value of services they provide to consumers.
C) Small businesses ("small business" means a business employing 1-49 persons):

Medical, dental, and chiropractic offices that provide services for individuals insured in auto accidents may purchase the RVP 2021 or RVD 2021 publication that is incorporated by reference in the rule. The list price for the RVP 2021 is \$1,000 and for the 2021 RVD is \$600. The Department has arranged a 50% discount for purchasers with a Utah address. The cost of the RVP 2021 is \$500 for an electronic copy. The cost of the RVD 2021 is \$300 for an electronic copy. Hard copies are no longer available. By using the publication with the conversion factors in the rule, they will be able to determine the reasonable charges or services they provide to those injured in automobile accidents.

Estimated costs to small business: Purchases of RVP (\$500) x 2,267 Physician and Chiropractor Offices + Purchases of RVD (\$300) x 1,739 Dental Offices = \$1,655,200.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

Medical, dental, and chiropractic offices that provide services for individuals insured in auto accidents may purchase the RVP 2021 or RVD 2021 publication that is incorporated by reference in the rule. The list price for the RVP 2021 is \$1,000 and for the 2021 RVD is \$600. The Department has arranged a 50% discount for purchasers with a Utah address. The cost of the RVP 2021 is \$500 for an electronic copy. The cost of the RVD 2021 is \$300 for an electronic copy. Hard copies are no longer available. By using the publication with the conversion factors in the rule, they will be able to determine the reasonable charges or services they provide to those injured in automobile accidents.

Estimated costs to non-small business: Purchases of RVP (\$500) x 94 Physician Offices + Purchases of RVD (\$300) x 4 Dental Offices = \$48,200.

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**):

Auto insurers, or those they contract with to service their claims, and health care providers may purchase the RVP 2021 or RVD 2021 publication that is incorporated by reference in the rule. The list price for the RVP 2021 is \$1,000 and for the 2021 RVD is \$600. The Department has arranged a 50% discount for purchasers with a Utah address. The cost of the RVP 2021 is \$500 for an electronic copy. The cost of the RVD 2021 is \$300 for an electronic copy. Hard copies are no longer available. By using the publication with the conversion factors in the rule, they will be able to determine the reasonable charges of medical and dental services they are required to reimburse providers for treatment under personal injury protection coverage in Utah.

Estimated costs to Auto Insurers = Purchases of both RVP and RVD (\$800) x 109 Property and Casualty Insurers = \$87,200.

Optum, the company that sells the RVP 2021 and RVD 2021, will benefit from increased sales of these products.

Estimated sales to Optum: Purchases of RVP (\$500) x 2,472 Physician, Chiropractor, and Insurer businesses + Purchases of RVD (\$300) x 1,854 Dental and Insurer businesses = \$1,792,200.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

Affected persons may purchase the RVP 2021 or RVD 2021 publication that is incorporated by reference in the rule. The Department is sensitive to this compliance cost and has arranged a 50% discount for purchasers with a Utah address, as has been arranged in prior years, to help ameliorate any adverse costs on small businesses. The cost of the RVP 2021 is \$500 for an electronic copy, while the RVD 2021 is \$300 for an electronic copy. Hard copies are no longer available. Additionally, as required by rulemaking guidelines, both publications will be available for review by affected persons at the Insurance Department and the Department of Administrative Rules at no charge.

Small businesses (physicians, dentists, chiropractors) are likely to purchase one publication or the other, depending on their specialization. The net one-time cost for small businesses as a whole may be \$1,655,200. The net one-time cost for larger businesses as a whole may be \$48,200. Other persons (auto insurers) may purchase both publications. The net-one time cost for other persons may be \$87,200. The net one-time cost for all affected persons (small businesses and large businesses and insurers) may be \$1,792,200.

It is also important to note that the Department makes its copies of the RVD and RVP available to any affected parties for free viewing in the Department's offices.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

While amendments to this rule will have a fiscal impact on businesses, the Department has done all it can to minimize the impact by arranging a significant discount to purchasers and making copies freely available at the Department's office. We expect that the vast majority of purchases will happen when the rule takes effect in FY2022. While some companies may purchase later, the Department has no way of estimating how many companies may do so. Jonathan T. Pike, Commissioner

6. A) 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	FY2022	FY2023	FY2024
State Government	\$120,600	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$1,655,200	\$0	\$0
Non-Small Businesses	\$48,200	\$0	\$0
Other Persons	\$87,200	\$0	\$0
Total Fiscal Cost	\$1,911,200	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$1,792,200	\$0	\$0
Total Fiscal Benefits	\$1,792,200	\$0	\$0
Net Fiscal Benefits	-\$119,000	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

Citation Information

7. 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		

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. 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*):

	First Incorporation
Official Title of Materials Incorporated (from title page)	Relative Values for Dentists
Publisher	Optum 360
Date Issued	
Issue, or version	2021

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*):

	Second Incorporation
Official Title of Materials Incorporated (from title page)	Relative Values for Dentists
Publisher	Optum 360
Date Issued	
Issue, or version	2019

C) 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*):

	Second Incorporation
Official Title of Materials Incorporated	Relative Values for Physicians

(from title page)	
Publisher	Optum 360
Date Issued	
Issue, or version	2021

D) 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*):

	Second Incorporation
Official Title of Materials Incorporated (from title page)	Relative Values for Physicians
Publisher	Optum 360
Date Issued	
Issue, or version	2019

Public Notice Information

9. 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 (mm/dd/yyyy): 12/15/2021

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

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

10. This rule change MAY become effective on (mm/dd/yyyy): 12/22/2021

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.

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.

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date (mm/dd/yyyy):	10/13/2021
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R590. Insurance, Administration.

R590-267. Personal Injury Protection Relative Value Study Rule.

R590-267-1. Authority.

This rule is promulgated by the ~~insurance~~ commissioner pursuant to ~~[Subsections 31A-2-201(3) and 31A-22-307(2)]~~ Section 31A-2-201.

R590-267-2. Purpose and Scope.

(1) The purpose of this rule is to establish a reasonable value of services and accommodations for the diagnosis, care, recovery, or rehabilitation of an injured person under automobile personal injury protection coverage ~~[as described in]~~ under Subsection 31A-22-307(1)(a).

(2) ~~[As required by Subsection 31A-22-307(2), the reasonable value is based on the 75th percentile of medical, dental, and chiropractic charges, as they presently exist in the most populous county in this State.~~

R590-267-3. Scope.

~~_____ This rule applies to services and accommodations provided:~~

~~_____ (1) under automobile personal injury protection coverage as described in Subsection 31A-22-307(1)(a); and~~

~~_____ (2) on or after January 1, 2014.]~~ This rule applies to services and accommodations provided under automobile personal injury

protection coverage under Subsection 31A-22-307(1)(a) on or after January 1, 2014.

R590-267-~~4~~3. Definitions.

Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

~~_____~~ (1) ~~[As used in this rule]~~ "Conversion Factor" means a multiplier used to convert the relative value unit or units of a service or a procedure to a reimbursement rate.

(2) "Relative Value Unit" means a numerical value assigned to a medical or dental procedure as published in an edition of the RVP or RVD.

~~_____~~ (3) ~~[As used in this rule]~~ "RVD ~~[2019]~~2021" means ~~[2019]~~2021 Edition of the Relative Values for Dentists published by Optum360, ~~[2525 Lake Park Blvd., Salt Lake City, UT 84120; phone: (800) 464 3649;]~~website: www.optum360coding.com, and incorporated by reference within this rule.

~~_____~~ (~~[3]~~4) ~~[As used in this rule]~~ "RVD ~~[2017]~~2019" means ~~[2017]~~2019 Edition of the Relative Values for Dentists published by Optum360, ~~[2525 Lake Park Blvd., Salt Lake City, UT 84120; phone: (800) 464 3649;]~~website: www.optum360coding.com, and incorporated by reference within this rule.

~~_____~~ (~~[4]~~5) ~~[As used in this rule]~~ "RVP ~~[2019]~~2021" means ~~[2019]~~2021 Edition of the Relative Values for Physicians published by Optum360, ~~[2525 Lake Park Blvd., Salt Lake City, UT 84120; phone: (800) 464 3649;]~~website: www.optum360coding.com, and incorporated by reference within this rule.

~~_____~~ (~~[5]~~6) ~~[As used in this rule]~~ "RVP ~~[2017]~~2019" means ~~[2017]~~2019 Edition of the Relative Values for Physicians published by Optum 360, ~~[2525 Lake Park Blvd., Salt Lake City, UT 84120; phone: (800) 464 3649;]~~website: www.optum360coding.com, and incorporated by reference within this rule.

~~_____~~ (6) ~~As used in this rule~~ "Relative Value Unit" means a numerical value assigned to a medical or dental procedure as published in RVP and RVD respectively.

~~_____~~ (7) ~~The publications identified in Subsections R590-267-4(2), (3), (4), and (5) are hereby incorporated by reference within this rule.~~

R590-267-~~5~~4. Conversion Factors.

(1)(a) The following conversion factors shall be used with RVP ~~[2019]~~2021 to determine the reasonable value of each medical service[s] or accommodation[s] provided on or after January 1, ~~[2020]~~2022:

(i) anesthesia, ~~[108.00]~~109.20;

(ii) surgery, ~~[225.88]~~232.50;

(iii) radiology, ~~[35.60]~~36.76;

(iv) pathology, ~~[24.29]~~24.00;

(v) medicine, ~~[12.80]~~13.33;

(vi) evaluation and management, ~~[14.74]~~16.07.

(b) The conversion factor used with RVD ~~[2019]~~2021 to determine the reasonable value of each dental service[s] or accommodation[s] provided on or after January 1, ~~[2020]~~2022 shall be ~~[66.67]~~68.33.

(2)(a) The following conversion factors shall be used with RVP ~~[2017]~~2019 to determine the reasonable value of each medical service[s] or accommodation[s] provided from January 1, ~~[2018]~~2020 through December 31, ~~[2019]~~2021:

(i) anesthesia, ~~[99.27]~~108.00;

(ii) surgery, ~~[225.90]~~225.88;

(iii) radiology, ~~[37.50]~~35.60;

(iv) pathology, ~~[25.00]~~24.29;

(v) medicine, ~~[13.00]~~12.80; and

(vi) evaluation and management, ~~[14.65]~~14.74.

(b) The conversion factor used with RVD ~~[2017]~~2019 to determine the reasonable value of each dental service[s] or accommodation[s] provided from January 1, ~~[2018]~~2020 through December 31, ~~[2019]~~2021 shall be ~~[63.00]~~66.67.

R590-267-~~6~~5. Fee Schedule.

The reasonable value of any service or accommodation shall be calculated by multiplying the relative value unit assigned to the service or accommodation by the applicable conversion factor prescribed in R590-267-~~5~~4.

R590-267-~~7~~6. Penalties.

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

~~R590-267-8.~~ 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 R590-267, 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: relative value study

Date of Enactment or Last Substantive Amendment: January 1, 2020

Notice of Continuation: October 24, 2018

Authorizing, and Implemented or Interpreted Law: 31A-2-201(3); 31A-22-307(2)