

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:

R590-269

Filing ID: Office Use Only

Agency Information

1. Department:	Insurance
Agency:	Administration
Room number:	Suite 2300
Building:	Taylorville State Office Building
Street address:	4315 S. 2700 W.
City, state and zip:	Taylorville, 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 agency.

General Information

2. Rule or section catchline:
R590-269. Individual Open Enrollment Period
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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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 section, 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	FY2023	FY2024	FY2025
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	FY2023	FY2024	FY2025
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	Section 31A-30-117	

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:		01/03/2023
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):

9. This rule change MAY become effective on:	01/10/2023
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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 <i>Utah State Bulletin</i> and delaying the first possible effective date.			
Agency head or designee and title:	Steve Gooch, Public Information Officer	Date:	11/04/2022

R590. Insurance, Administration.

R590-269. Individual Open Enrollment Period.

R590-269-1. Authority.

This rule is promulgated by the commissioner pursuant to ~~Subsection 31A-30-117(1)(c) wherein the commissioner is directed to adopt a rule to establish one statewide open enrollment period for the individual insurance market that is not part of the Federally Facilitated Marketplace~~ Sections 31A-2-201 and 31A-30-117.

R590-269-2. Purpose and Scope.

(1) The purpose of this rule is to establish an open enrollment period for ~~a carrier~~ an insurer that offers an individual health benefit plan outside the ~~Federally Facilitated Marketplace~~ health insurance exchange.

(2) This rule applies to an individual carrier that offers an individual health benefit plan outside the ~~Federally Facilitated Marketplace~~ health insurance exchange with an effective date on or after January 1, 2014.

R590-269-3. Definitions.

~~In addition to the definitions in Sections 31A-1-301 and 31A-30-103, the following definitions apply for the purpose of this rule.~~

~~(1) "Federally Facilitated Marketplace" means an exchange set up by the federal government to facilitate the purchase of individual health insurance in accordance with the Patient Protection and Affordability Care Act (PPACA).]~~

Terms used in this rule are defined in Sections 31A-1-301 and 31A-30-103. Additional terms are defined as follows:

(1)(a) "Loss of minimum essential coverage" means the circumstances described in 26 CFR 54.9801-6(a)(3)(i) through (iii).

(b) "Loss of minimum essential coverage" does not include termination or loss due to:

(i) failure to pay premiums on a timely basis, including COBRA premiums before the expiration of COBRA coverage; or

(ii) a situation allowing for a rescission as specified in 45 CFR 147.128.

(2) "Qualifying life event" means an event that triggers a special enrollment period because an individual or dependent:

(a) loses minimum essential coverage;

(b) gains a dependent or becomes a dependent through marriage, birth, adoption, or placement for adoption;

(c) ~~enrollment or non-enrollment is unintentional, inadvertent, or erroneous and is the~~ is unintentionally, inadvertently, or erroneously enrolled or non-enrolled as a result of the error, misrepresentation, or inaction of an officer, employee, or agent of an exchange or the United States Department of Health and Human Services, or its instrumentalities as evaluated and determined by an exchange;

(d) ~~adequately~~ demonstrates to the individual carrier that the health benefit plan in which ~~he or she is previously~~ the individual ~~was~~ enrolled substantially violated a material provision of its contract in relation to the enrollee;

(e) is newly ineligible for advance payment of premium tax credits; or

(f) permanently moves into a new service area.

- ~~_____ (2)(a) "Loss of minimum essential coverage" means those circumstances described in 26 CFR 54.9801-6(a)(3)(i) through (iii).~~
~~_____ (b) Loss of minimum essential coverage does not include termination or loss due to:~~
~~_____ (i) failure to pay premiums on a timely basis, including COBRA premiums prior to expiration of COBRA coverage; or~~
~~_____ (ii) situations allowing for a rescission as specified in 45 CFR 147.128.]~~

R590-269-4. Open and Special Enrollment Periods.

(1)(a) The open enrollment period for an individual health benefit plan outside the ~~[Federally Facilitated Marketplace will]~~ health insurance exchange shall coincide with the open enrollment period for the ~~[Federally Facilitated Marketplace]~~ health insurance exchange.

(b) Open enrollment period coverage begins on:

(i) January 1 for an individual[s] who enrolls on or before December 15;

(ii) the first day of the following month, for an individual[s] who enrolls between the first and the fifteenth of the month; and

(iii) the first day of the second following month for an individual[s] who enrolls between the sixteenth and the last day of the month.

~~[(2)(a) An individual carrier]~~ (2) An insurer shall offer [to] an individual experiencing a qualifying life event[;] a special enrollment period for at least 60 days.

~~[(b)](a)~~ In the case of birth, adoption, or placement for adoption, the coverage is effective on the date of:

(i) birth;

(ii) adoption; or

(iii) placement for adoption.

~~[(c)](b)~~ Coverage is effective on the first day of the month following the date the ~~[carrier]~~ insurer receives the request for special enrollment ~~[in the case of]when:~~

(i) ~~[marriage]~~ an individual or dependent marries;

(ii) an individual or dependent loses minimum essential coverage;

(iii) an individual or ~~[dependent's enrollment or non-enrollment is unintentional, inadvertent, or erroneous and is the]~~ dependent is unintentionally, inadvertently, or erroneously enrolled or non-enrolled as a result of the error, misrepresentation, or inaction of an officer, employee, or agent of an exchange or the United States Department of Health and Human Services, or its instrumentalities as evaluated and determined by an exchange[-];

(iv) an individual ~~[adequately demonstrates to the individual carrier]~~ demonstrates to the insurer that the health benefit plan in which ~~[he or she is previously]~~ the individual was enrolled substantially violated a material provision of its contract ~~[in relation to]~~ regarding the enrollee; or

(v) an individual permanently moves into a new service area.

R590-269-5. ~~Penalties.~~

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

~~R590-269-6. Severability.~~

~~[If any provision of this rule or its application to any person or circumstances is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected thereby.]~~ If any provision of this rule, Rule R590-269, 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: individual open enrollment period

Date of Enactment or Last Substantive Amendment: September 23, 2015

Notice of Continuation: January 11, 2019

Authorizing, and Implemented or Interpreted Law: 31A-30-117(1)(c)