

State of Utah
Administrative Rule Analysis
Revised June 2022

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment ___; Repeal <u>x</u> ; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Rule or Section Number:	R590-270	Filing ID: Office Use Only

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room number:	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 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:
R590-270. Risk Adjustment Data Submission Requirements
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The rule is being repealed because the enacting statute — Section 31A-30-302 — was repealed by HB336 (2017 General Session) effective July 1, 2019, and the Department has not used this rule since that time.
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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The rule is being repealed.

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 The enacting statute was repealed effective July 1, 2019 and the Department has not used this rule since that time.
B) Local governments:
There is no anticipated cost or savings to local governments. The enacting statute was repealed effective July 1, 2019 and the Department has not used this rule since that time.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. The enacting statute was repealed effective July 1, 2019 and the Department has not used this rule since that time.
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 The enacting statute was repealed effective July 1, 2019 and the Department has not used this rule since that time.

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 enacting statute was repealed effective July 1, 2019 and the Department has not used this rule since that time.

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. This rule has not been actively used since July 1, 2019 and the rule is now being repealed.

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-30-302(3)(a)	Section 31A-30-302(4)(a)	

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)	
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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:	12/01/2022	
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:	12/08/2022
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:	10/14/2022

~~**R590. Insurance, Administration.**~~

~~**R590 270. Risk Adjustment Data Submission Requirements.**~~

~~**R590 270 1. Authority.**~~

~~_____ This rule is promulgated pursuant to Subsections 31A-30-302(3)(a) and (4)(a) wherein the commissioner may adopt a rule to require a carrier to submit data to the All Payer Claims Database (APCD).~~

~~**R590 270 2. Purpose.**~~

~~_____ The purpose of this rule is to outline the responsibilities of a carrier with regard to the required data submission to the APCD that is necessary for the evaluation of a state-based risk adjustment program in the individual and small employer health benefit plan markets.~~

~~**R590 270 3. Applicability and Scope.**~~

~~_____ (1) This rule applies:~~

~~_____ (a) to a carrier that issues a risk adjustment covered plan to a Utah:~~

~~_____ (i) resident; or~~

~~_____ (ii) domiciled small employer; and~~

~~_____ (b) regardless of any limitations or exemptions offered in R428 rules or Section 26-33a-102, based on the number of covered individual Utah residents.~~

~~_____ (2) This rule does not apply to a transitional health benefit plan.~~

~~**R590 270 4. Definitions.**~~

~~_____ In addition to the definitions in Sections 31A-1-301 and 26-33a-102, and R428 rules, the following definitions apply for the purpose of this rule.~~

~~_____ (1) "Non-grandfathered health plan" means a health benefit plan issued to an individual or small employer:~~

~~_____ (a) after March 23, 2010; or~~

~~_____ (b) on or before March 23, 2010 that lost grandfather status at a renewal that occurred after March 23, 2010.~~

~~_____ (2) "Risk adjustment covered plan" means a plan as defined by 45 CFR 155.20.~~

~~_____ (3) "Subscriber premium" means the monthly premium for the subscriber and associated dependents that correspond to the carrier's rate data template filed with the Utah Insurance Department.~~

~~_____ (4) "Transitional plan" means a non-grandfathered health plan issued to an individual or small employer prior to January 1, 2014, that is renewed after January 1, 2014 pursuant to guidance issued by the United States Department of Health and Human Services Office for Consumer Information and Insurance Oversight dated November 14, 2013 and March 5, 2014.~~

~~_____ (5) "APCD Carrier" means a carrier that is required to submit data to the APCD based on parameters outlined in R428 rules.~~

~~_____ (6) "RA Carrier" means a carrier that is not required to submit data to the APCD based on parameters outlined in R428 rules, but issues risk adjustment covered plans where that plan is subject to risk adjustment in Utah.~~

~~**R590-270-5. APCD Carrier Data Submission Requirements.**~~

~~_____ (1) An APCD Carrier shall submit complete and accurate data to the APCD as prescribed by R428 rules.~~

~~_____ (2) For any submissions to the APCD on or after January 1, 2015, an APCD Carrier shall include in the medical eligibility file the DSG2.0 Additional Data Elements, which is hereby incorporated by reference and available on the Department's website at insurance.utah.gov.~~

~~_____ (a) The DSG2.0 Additional Data Elements shall be inserted into the medical eligibility file after all existing fields, that is, after field ME899.~~

~~_____ (b) The DSG2.0 Additional Data Elements may be submitted with null values for records that are not subject to risk adjustment as outlined in 45 CFR Section 156.80.~~

~~_____ (3) For any submissions to the APCD on or after January 1, 2015, an APCD Carrier shall submit data to the APCD for non Utah residents if the individual receives coverage through a risk adjustment covered plan issued to a Utah domiciled small employer group.~~

~~_____ (4)(a) An APCD Carrier shall submit the required data to the APCD by the end of the month following the applicable data month.~~

~~_____ (b) Notwithstanding any exemption or extension requested under R428 rules, an APCD Carrier must provide to the APCD, in production format by August 31, 2014, at least all claims adjudicated on or after January 1, 2014 and ending on or before June 30, 2014.~~

~~_____ (5)(a) An APCD Carrier shall submit a one time supplemental eligibility file to the Office of Health Care Statistics. The supplemental eligibility file shall:~~

~~_____ (i) be a supplement to the monthly medical eligibility file;~~

~~_____ (ii) be submitted through a secure method agreed upon by OHCS;~~

~~_____ (iii) be submitted by November 1, 2014; and~~

~~_____ (iv) have a one to one match to records in the most recent available monthly medical eligibility file submitted to the APCD; and~~

~~_____ (b) The one time supplemental eligibility file shall follow:~~

~~_____ (i) the record layout in the medical eligibility file in the One time APCD Supplemental Eligibility File, which is hereby incorporated by reference and available on the Department's website at insurance.utah.gov; or~~

~~_____ (ii) an alternative format as approved by the commissioner.~~

~~**R590-270-6. RA Carrier Data Submission Requirements.**~~

~~_____ (1) Starting January 1, 2015, a RA Carrier shall submit complete and accurate data to the APCD as prescribed by R428 rules, regardless of any limitations or exemptions offered in R428 rules or Section 26-33a-102 based on the number of covered individual Utah residents.~~

~~_____ (2) For any submissions to the APCD on or after January 1, 2015, a RA Carrier shall include the DSG2.0 Additional Data Elements in the medical eligibility file.~~

~~_____ (a) The DSG2.0 Additional Data Elements shall be inserted into the medical eligibility file after all existing fields, that is, after field ME899.~~

~~_____ (b) The DSG2.0 Additional Data Elements may be submitted with null values for records that are not subject to risk adjustment as outlined in 45 CFR Section 156.80.~~

~~_____ (3) For any submissions to the APCD on or after January 1, 2015, a RA Carrier shall submit data to the APCD for non Utah residents if the covered individual receives coverage through a risk adjustment covered plan issued to a Utah domiciled small employer group.~~

~~_____ (4) A RA Carrier shall submit the required data to the APCD by the end of the month following the applicable data month.~~

~~_____ (5) The commissioner may approve an alternate submission method if a RA Carrier demonstrates to the satisfaction of the commissioner that the requirements of this rule impose an unreasonable burden to the RA Carrier and would place the RA Carrier in a state of supervision, insolvency, or liquidation.~~

~~**R590-270-7. Data Use Limitations.**~~

~~_____ The additional fields required by this rule will be used exclusively for purposes identified in Subsection 26-33a-106.1(1).~~

~~**R590-270-8. Penalties.**~~

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

~~**R590-270-9. Enforcement Date.**~~

~~_____ The commissioner will begin enforcing the provisions of this rule 45 days from the rule's effective date.~~

~~**R590-270-10. 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.~~

~~KEY: insurance, risk adjustment program~~

~~Date of Enactment or Last Substantive Amendment: September 22, 2014~~

~~Notice of Continuation: September 20, 2019~~

~~Authorizing, and Implemented or Interpreted Law: 31A-30-302(3)(a) and (4)(a)]~~