

State of Utah
Administrative Rule Analysis
 Revised November 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.): | R590-271 | 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

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|---|
| 2. Rule or section catchline: |
| R590-271. Data Reporting for Consumer Quality Comparison |
| 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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule): |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 because penalties are already provided for in statute, 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

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

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. — Jonathan T. Pike, Insurance 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 | \$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 | | | |
| 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 |

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 | Section 31A-2-216 | |
| | | |
| | | |

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) | |
| Publisher | |
| Date Issued | |

| | |
|--------------------------|--|
| 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*):

| | |
|---|-----------------------------|
| | Second Incorporation |
| Official Title of Materials Incorporated (from title page) | |
| Publisher | |
| Date Issued | |
| Issue, or version | |

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): 05/31/2022

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): 06/07/2022

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): | 04/15/2022 |
|--|---|---------------------------|------------|

R590. Insurance, Administration.

R590-271. Data Reporting for Consumer Quality Comparison.

R590-271-1. Authority.

This rule is promulgated by the commissioner pursuant to ~~[Subsection 31A-2-216 wherein the commissioner may adopt rules to educate health care consumers by producing or collecting and disseminating education materials to consumers]~~ Sections 31A-2-201 and 31A-2-216.

R590-271-2. Purpose and Scope.

(1) The purpose of this rule is to:

(a) ~~define terms;~~

~~(b) define the methodology for determining and comparing insurer transparency information;~~

~~(c) provide the data and (b) establish a format for [submission] submitting data to the commissioner; and~~

~~(d) provide (c) establish the date the [information] data is due.~~

(2)(a) This rule applies to ~~all~~ an insurer offering a health benefit plan ~~[s issued or renewed on or after January 1, 2015].~~

(b) This rule does not apply to an insurer whose health benefit plans cover fewer than 3,000 individual Utah residents in aggregate.

R590-271-3. Definitions.

~~[In addition to the definitions in Sections 31A-1-301, the following definitions shall apply for the purpose of this rule]~~ Terms used in this rule are defined in Section 31A-1-301. Additional terms are defined as follows:

(1) "Electronic ~~[D]~~ data ~~[H]~~ interchange ~~[S]~~ standard" means ~~the~~

~~(a) the standards developed by the UHIN Standards Committee at the request of the commissioner; and~~

~~(b) others as adopted by the commissioner by rule].~~

(2) "HEDIS" means the Healthcare Effectiveness Data and Information Set.

(3) "SFTP" means the Secure File Transfer Protocol.

~~(3)~~(4) "UHIN" means the Utah Health Information Network.

~~(4)~~(5) "UHIN Standards Committee" means the Standards Committee of the UHIN.

R590-271-4. Reporting Requirements.

(1)(a) The commissioner adopts the following UHIN electronic data interchange standards developed ~~[and adopted]~~ by the UHIN Standards Committee, which are ~~[hereby incorporated by reference with this rule and are]~~ available for public inspection at the department during normal business hours, at ~~[www.]~~insurance.utah.gov, or at ~~[www.]~~uhin.org:

(i) ~~[the]~~Transparency Administration Performance Standard, v1.~~[5]8~~; and

(ii) ~~[the]~~Transparency Denial Standard, v1.~~[5]8~~.

~~(b) [Beginning on April 1, 2020, and each year thereafter, an]An insurer shall submit [the reports]to the commissioner a report on each electronic data interchange standard referenced in R590-271-4(1)(a)[to the commissioner in an electronic data interchange standard which includes data for the previous calendar year through the department's secure file upload site].~~

~~(c) Each report shall be submitted using the department's secure file upload site at https://forms.uid.utah.gov/insurance/fileuploads.~~

~~(d) Each report shall include data for the previous calendar year, and shall combine both paper and electronic claims[combined].~~

~~(d) S](e) The submission format, procedures, and guidelines are described in detail in the adopted transparency standards published by UHIN.~~

(2) An insurer shall comply with the reporting guidelines, procedures, and format of Rule R428-13 and submit HEDIS data for ~~the preceding calendar year~~ to the Utah Department of Health Office of Health Care Statistics~~[- the Healthcare Effectiveness Data and Information Set, HEDIS, data for the preceding calendar year].~~

R590-271-5. Public Records.

The ~~[commissioner finds the]~~data submitted to the commissioner ~~[in the Transparency Administration Performance Standard and the Transparency Denial Standards to be considered a]~~pursuant to this rule are public records as defined in Section 63G-2-103 for ~~[the purpose of display-]use on:~~

(1) the department's website, insurance.utah.gov; and

(2) the department's transparency website, healthrates.utah.gov.

R590-271-6. ~~Penalties.~~

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

R590-271-7. ~~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 R590-271, 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: data, data reporting, insurance

Date of Enactment or Last Substantive Amendment: January 22, 2020

Authorizing, and Implemented or Interpreted Law: 31A-2-216