

**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:**

**R590-275**

**Filing ID: Office Use Only**

**Agency Information**

<b>1. Department:</b>	Insurance	
<b>Agency:</b>	Administration	
<b>Room number:</b>	Suite 2300	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S. 2700 W.	
<b>City, state and zip:</b>	Taylorsville, UT 84129	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state and zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact persons:</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
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:**

R590-275. Qualified Health Plan Alternate Enrollment

**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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):**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 and Enforcement Date sections, 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**

<b>Fiscal Cost</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**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-2-212	

**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*):

<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Issue Date</b>	
<b>Issue or Version</b>	

**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*):

<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	

Issue Date	
Issue or Version	

**Public Notice Information**

<b>8. The public may submit written or oral comments to the agency identified in box 1.</b> (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.)		
<b>A) Comments will be accepted until:</b>		<b>05/01/2023</b>
<b>B) A public hearing (optional) will be held:</b>		
<b>On (mm/dd/yyyy):</b>	<b>At (hh:mm AM/PM):</b>	<b>At (place):</b>

<b>9. This rule change MAY become effective on:</b>	<b>05/08/2023</b>
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**

<b>To the agency:</b> 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.			
<b>Agency head or designee and title:</b>	Steve Gooch, Public Information Officer	<b>Date:</b>	<b>03/06/2023</b>

**R590. Insurance, Administration.**

**R590-275. Qualified Health Plan Alternate Enrollment.**

**R590-275-1. Authority.**

This rule is promulgated by the commissioner pursuant to ~~[Section 31A-2-201 and Subsection 31A-2-212(5) wherein the commissioner may make rules to implement the provisions of Title 31A and preserve state control over the health insurance market]~~ Sections 31A-2-201 and 31A-2-212.

**R590-275-2. Purpose and Scope.**

- (1) The purpose of this rule is to ~~[select]~~ identify an alternate enrollment system for a PPACA qualified health plan as provided in 45 CFR 155.335(j)(3).
- (2) This rule applies:
  - (a) when ~~[a carrier]~~ an insurer will have no qualified health plan[s] available to an individual[s] on the ~~[Federal Exchange]~~ health insurance exchange for the upcoming plan year;
  - (b) to ~~[a carrier]~~ an insurer who offers a qualified health plan to an individual on the ~~[Federal Exchange]~~ health insurance exchange; and
  - (c) to the ~~[Federal Exchange]~~ health insurance exchange.

**R590-275-3. Definitions.**

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

~~(1) "Federal Exchange" means the exchange established and operated by the United States Department of Health and Human Services that makes individual qualified health plans available to qualified enrollees.]~~

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

~~(1)(a) "Metal level" means the health plan category based on how an insured individual and the plan split the cost of health care.~~

(b) A plan in the marketplace is presented in one of four health plan categories:

- (i) bronze;
- (ii) silver;
- (iii) gold; or
- (iv) platinum.

(2) "Qualified ~~[Health Plan]~~ health plan" or "QHP" means a health benefit plan that is certified to meet the standards recognized by the ~~[Federal Exchange]~~ health insurance exchange.

**R590-275-4. Alternate [e]Enrollment [p]Process.**

~~[(1) Pursuant to 45 CFR 155.335(j)(3), the Federal Exchange requires a defined alternate enrollment for an enrollee in an individual qualified health plan, QHP, where the carrier.]~~ (1) If an insurer will have no health insurance exchange option available for the upcoming plan year due to ~~[a carrier]the insurer~~ no longer offering an individual QHP in a particular service area in which it previously offered coverage on the ~~[Federal Exchange]health insurance exchange~~, the health insurance exchange shall direct enrollment for an enrollee to a QHP issued by a different insurer subject to Subsection (3) and the insurer's ability to absorb new enrollment.

(2) At renewal, if an enrollee does not have an individual QHP available from the same ~~[carrier]insurer~~ through the ~~[Federal Exchange]health insurance exchange~~ in which to enroll, the ~~[Federal Exchange]health insurance exchange~~ shall direct enrollment for an enrollee to a QHP issued by a different ~~[carrier based on the hierarchy in ]insurer~~ subject to Subsection (3) ~~[, subject to a carrier's] and the insurer's~~ ability to absorb new enrollment.

(3)(a) The enrollee's coverage will be matched to a QHP in the same service area:

(i) at the same metal level; or

(ii) if more than one QHP is available, the coverage will be matched to a QHP at the same metal level with the lowest premium.

(b) If no QHP is available at the same metal level in the same service area, the enrollee will be matched to a QHP in the same service area:

(i) that is one metal level lower than the enrollee's current QHP; or

(ii) if more than one QHP is available, coverage will be matched to a QHP at one metal level lower with the lowest premium.

(c) If no QHP is available at the same metal level or one metal level lower and in the same service area, the enrollee will be matched to a QHP that is:

(i) one metal level higher than the enrollee's current QHP; or

(ii) if more than one QHP is available at one metal level higher, coverage will be matched to a QHP at one metal level higher with the lowest premium.

(d) If no QHP is available at the same metal level, one metal level lower, or one metal level higher in the same service area, the enrollee will be matched to any QHP at any metal at the lowest premium in the same service area.

(4) The alternate enrollment ~~[hierarchy]provisions~~ in Subsection (3) ~~[does]do~~ not apply to an enrollee who terminates coverage, including termination of coverage in connection with voluntarily selecting a different QHP in accordance with 45 CFR 155.430.

[

**~~R590-275-5. Penalties.~~**

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

**~~R590-275-6. Enforcement Date.~~**

~~———— The commissioner will begin enforcing this rule September 1, 2017.]~~

**R590-275-[7]5. 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 R590-275, 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: insurance, enrollment**

**Date of Last Change: October 23, 2017**

**Notice of Continuation: October 14, 2022**

**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-22-212(5)**