

NOTICE OF
PROPOSED NEW RULE

- The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301 and Subsection 53C-1-201(3)(c).
- Please address questions regarding information on this notice to the agency.
- The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- The full text of all rule filings may also be inspected at the Office of Administrative Rules.

Agency Information

1. Agency: Insurance - Administration
 Room no.: 3110
 Building: STATE OFFICE BLDG
 Street address 1: 450 N MAIN ST
 Street address 2:
 City, state, zip: SALT LAKE CITY UT 84114-1201
 Mailing address 1: PO BOX 146901
 Mailing address 2:
 City, state, zip: SALT LAKE CITY UT 84114-6901

Contact person(s):

Name:	Phone:	Fax:	E-mail:
Steve Gooch	801-538-3803	801-538-3829	sgooch@utah.gov

(Interested persons may inspect this filing at the above address or at DAR during business hours)

Rule Information

DAR file no: 42041 Date filed: 08/24/2017 05:09 PM
 State Admin Rule Filing Key: 159321
 Utah Admin. Code ref. (R no.): R 590 - 275 -

Title

2. Title of rule or section (catchline):
 Qualified Health Plan Alternate Enrollment

Notice Type

3. Type of notice: New Rule

Rule Purpose

4. Purpose of the rule or reason for the change:

The purpose of this rule is to: select an alternate enrollment system for PPACA qualified health plans, as provided in 45 CFR 155.335(j)(3) that applies to situations where an issuer will have no individual Federal Exchange enrollment option for the upcoming plan year; take action in order to preserve state control over Utah's health insurance market by direction of the US Department of Health and Human Services to follow Utah's alternate enrollment process; and provide an alternate enrollment system that assists consumers in the most appropriate plan.

Response Information

5. This change is a response to comments by the Administrative Rules Review Committee.

No

Rule Summary

6. Summary of the rule or change:

The rule establishes a state-directed process for the purpose of defining the hierarchy when an issuer leaves the individual Federal Marketplace as provided in 45 CFR 155.335(j)(3). Failure of the state to direct the alternate enrollment process will result in Utah enrollees' plan enrollments being directed by a default federal hierarchy.

Aggregate Cost Information

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: No

There is no anticipated cost or savings to the state budget. This rule does not affect the workload or budget of the state.

B) Local government:

Affected: No

There is no anticipated cost or savings to local governments. This rule does not affect the workloads or budgets of local governments.

C) Small businesses:

Affected: Yes

("small business" means a business employing fewer than 50 persons)

While the rule itself does not have direct cost or savings to small businesses, there is a potential cost to small businesses who are health care providers that contract with an issuer who will no longer offer a qualified health plan on the individual Federal Exchange. Such small businesses may see a decrease in patients. The department is unable to determine the potential decrease due to other underlying factors, including an enrollee's ability to switch to another plan that offers the same provider network; or in cases where the plan assigned by the alternate enrollment process may include the enrollee's current health care providers.

D) Persons other than small businesses, businesses, or local government entities:

Affected: Yes

("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency)

While the rule does not have direct cost or savings to any individual, partnership, association, government entity, or public organization, it may affect a corporation or private organization that offers health insurance based on the use of a state-defined process, rather than defaulting to the federal process. The cost or savings cannot be calculated at this time because it is not known which individuals will enroll in the default plan based on the rule's hierarchy; nor is it possible to know the health status of those individuals.

Compliance Cost Information

8. Compliance costs for affected persons:

There are no compliance costs for any affected persons as a result of this rule.

Department Head Comments

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

I. WHETHER A FISCAL IMPACT TO BUSINESS IS EXPECTED AS A RESULT OF THE PROPOSED RULE AND, IF SO, A DESCRIPTION OF WHY: While the rule does not have a direct cost or savings to any individual, partnership, association, government entity, or public organization, it may affect a corporation or private organization that offers health insurance based on the use of a state-defined process, rather than defaulting to the federal process. The cost or savings cannot be calculated at this time because it is not known which individuals will enroll in the default plan based on the rule's hierarchy; nor is it possible to know the health status of those individuals. Because the rule establishes a process to assign business, there is a potential cost to small business who are health care providers that contract with an issuer who will no longer offer a qualified health plan on the individual Federal Exchange; such small businesses may see a decrease in patients. The department is unable to determine the potential decrease due to other underlying factors , including an enrollee's ability to switch to another plan that offers the same provider network; or in cases where the plan assigned by the alternate enrollment process may include the enrollee's current health care providers. II. AN ESTIMATE OF THE TOTAL NUMBER OF BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED: The department is unable to determine the number of business establishments in Utah that may be affected by this rule. This rule may have an indirect impact on a portion of Utah's healthcare system, including physicians, clinics, health care facilities, and pharmacies, if an enrollee fails to select a new plan that includes their current health care providers. It is unknown how many enrollees will select which plans. III. AN ESTIMATE OF THE SMALL BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED: The department is unable to determine the number of business establishments in Utah that may be affected by this rule. This rule may have an indirect impact on a portion of Utah's healthcare system, including physicians, clinics, health care facilities, and pharmacies, if an enrollee fails to select a new plan that includes their current health care providers. It is unknown how many enrollees will select which plans. IV. A DESCRIPTION OF THE SOURCES OF COST OR SAVINGS AS WELL AS THE EXPECTED NET SAVINGS OR COST TO BUSINESS ESTABLISHMENTS AND SMALL BUSINESS ESTABLISHMENTS AS A RESULT OF THE PROPOSED RULE OVER A ONE-YEAR PERIOD, IDENTIFYING ONE-TIME AND ONGOING COSTS: The department is unable to determine the number of business establishments in Utah that may be affected by this rule. This rule may have an indirect impact on a portion of Utah's healthcare system, including physicians, clinics, health care facilities, and pharmacies, if an enrollee fails to select a new plan that includes their current health care providers. It is unknown how many enrollees will select which plans. V. DEPARTMENT HEAD'S COMMENTS ON THE ANALYSIS: When possible, Utah's leadership has always chosen to invoke the state's right to define processes required by the Affordable Care Act. In the past, the state has chosen its own Essential Health Benefit Plan, selected to run a SHOP Exchange, chosen not to expand Medicaid, and selected to perform plan management review, amongst other things. This rule invokes the state's right to define the alternate enrollment hierarchy based on the Utah marketplace. This rule preserves private competition in the marketplace, rather than federal assignment.

B) Name and title of department head commenting on the fiscal impacts:

Todd E. Kiser, Insurance Commissioner

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :
Section 31A-2-201

Subsection 31A-22-212(5)

Incorporated Materials

11. This rule adds, updates, or removes the following title of materials incorporated by reference (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank) :

Official Title of Materials Incorporated (from title page):
Publisher:
Date Issued:
Issue, or version:
ISBN Number:
ISSN Number:
Cost of Incorporated Reference:
Adds, updates, removes:

Comments

12. 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. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy) : 10/16/2017

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

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

Proposed Effective Date

13. This rule change may become effective on (mm/dd/yyyy): 10/23/2017

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After a minimum of seven days following the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Indexing Information

14. Indexing information - keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")):

insurance
enrollment

File Information

15. Attach an RTF document containing the text of this rule change (filename):

There is a document associated with this rule filing.

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 Authorization

Agency head or designee, and title:

Steve Gooch Information
Specialist

Date (mm/dd/yyyy): 08/24/2017