

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: 44180 Date filed: 11/01/2019 02:28 PM
 State Admin Rule Filing Key: 161685
 Utah Admin. Code ref. (R no.): R 590 - 282 -

Title

2. Title of rule or section (catchline):
 Pharmacy Benefit Manager Reporting

Notice Type

3. Type of notice: New Rule

Rule Purpose

4. Purpose of the rule or reason for the change:
 HB 370, Pharmacy Benefit Manager Amendments, passed during the 2019 General Session, requires the Insurance Department to license pharmacy benefit managers (PBMs). The rule provides information on the licensing of PBMs and establishes the data reporting guidelines required by HB 370.

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:

This rule defines terms, provides licensing requirements, establishes the format for data submission to the UID, and provides the date the information is due.

Aggregate Cost Information

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: Yes

There may be slight savings to the state budget. The administrative cost of processing PBM licenses is approximately \$35,000 per year. Having a rule for applicant filings will help keep these costs down because it will reduce the time required to follow up on incomplete applications. The rule covers licensing requirements and the format for data submission to the commissioner. There will be a minimal increase in employee time spent processing the data that is received by the commissioner, but this will be covered by existing FTEs.

B) Local government:

Affected: No

There will be no cost or savings to local governments because this rule governs only the relationship between the state and certain licensees.

C) Small businesses:

Affected: Yes

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

Most PBMs are not small businesses. For those PBMs considered to be a small business, the admin cost to process the license renewal payment each year will be minimal. The cost of the annual license fee will be \$1,050 per year. There will also be a cost to businesses in the form of work hours spent complying with the data reporting requirements, but this cost cannot be quantified because it is unique to each company.

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)

Administrative costs to licensees of the annual payment of the license fee should be nominal. The cost of the annual license fee will be \$1,050 per year. There will also be a cost to businesses in the form of work hours spent complying with the data reporting requirements, but this cost cannot be quantified because it is unique to each company.

Compliance Cost Information

8. Compliance costs for affected persons:

Administrative costs to licensees of the annual payment of the license fee should be nominal. The cost of the annual license fee will be \$1,050 per year. There will also be a cost to businesses in the form of work hours spent complying with the data reporting requirements, but this cost cannot be quantified because it is unique to each company.

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: Yes, there is a fiscal impact to a licensed PBM business. However, the majority of the fiscal impact comes from the required fee rule and not the application rule. In other words, the fiscal impact results from the license fee of \$1,050 which is assessed annually. There will also be a cost to businesses in the form of work hours spent complying with the data reporting requirements, but this cost cannot be quantified because it is unique to each company. II. AN ESTIMATE OF THE TOTAL NUMBER OF BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED: There are 30 PMB businesses that will submit an application. III. AN ESTIMATE OF THE SMALL BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED: We estimate that there may be 2 small businesses that submit an application. 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 rule is required by statute under HB 370. Because the rule describes the method of data reporting, there may be a cost to businesses to prepare the data and report it. The data already exists in a company's records; the cost would be the time it takes to create the report and send it to the Department. This cost cannot be quantified because it is unique to each company. V. DEPARTMENT HEAD'S COMMENTS ON THE ANALYSIS: The above analysis represents the Insurance Department's best estimate of the fiscal impact that this rule may have on business.

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) :
Subsection 31A-46-301(3)(c)(ii)

Subsection 31A-2-201(3)

Subsection 31A-46-202(1)(a)

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) :

12/16/2019

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):

12/23/2019

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

pharmacy benefit manager

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): 11/01/2019