

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$1,800,000	\$1,900,000	\$2,000,000
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$1,800,000	\$1,900,000	\$2,000,000
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$1,800,000	\$1,900,000	\$2,000,000
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$1,800,000	\$1,900,000	\$2,000,000
Net Fiscal Benefits:	\$0	\$0	\$0

*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 for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There will be a net zero impact to the 5 affected non-small businesses as a result of this rule. The affected non-small businesses are insurance carriers that participate on the individual market. They were required to reduce their premiums by the amount they expect to receive from the state defrayal of autism benefits. These 5 carriers have reduced their premiums by \$1,800,000 on aggregate. The state will be paying approximately this amount back to the carriers to defray their costs for covering autism claims.

The head of the Insurance Department, Todd E. Kiser, has reviewed and approved this fiscal analysis.

**"Non-small business" means a business employing 50 or more persons; "small business" means a business employing fewer than 50 persons.

R590-283. Defrayal of State-Required Benefits.

R590-283-1. Authority.

This rule is promulgated by the commissioner pursuant to Subsections 31A-2-201(3) (a) and 31A-30-118(4).

R590-283-2. Purpose and Scope.

(1) The purpose of this rule is to establish the method and timing of defraying the cost of a state-required benefit enacted on or after January 1, 2012 that is subject to 45 CFR 155.170 of the Patient Protection and Affordable Care Act.

(2) This rule applies to any health benefit plan that:

(a) is a qualified health plan;

(b) is offered on the exchange in the individual or small group market;

(c) has an effective date of coverage on or after January 1, 2020; and

(d) offers a state-required benefit in excess of the Utah Essential Health Benefits Package.

(3) A health benefit plan offering a state-required benefit that is offered exclusively off-exchange is not eligible for defrayal of state mandated benefits.

R590-283-3. Definitions.

For the purposes of this rule, the commissioner adopts the definitions of Sections 31A-1-301, 31A-30-103, and Rule R590-266, and the following definitions:

(1) "EHB" means essential health benefits.

(2) "Exchange" means the federal exchange, www.healthcare.gov, that makes qualified health plans available to qualified individuals or employers.

(3) "Qualified health plan" means a qualified health plan as defined in 45 CFR 155.20.

(4) "State-required benefit" means a benefit required by the state on or after January 1, 2012, other than for purposes of compliance with federal requirements, that is in excess of the Utah Essential Health Benefits Package.

R590-283-4. Unified Rate Review Template (URRT), Rate Data Template (RDT), and Plans and Benefits Template (PBT) Modifications.

A carrier who is eligible to receive defrayal for a state-required benefit shall modify the federal rate filing template as follows:

(1) a carrier shall exclude the amount the state will defray from the rates submitted on both the URRT, as well as the RDT;

(2) a carrier shall indicate in the rate filing's actuarial memorandum:

(a) whether or not the carrier anticipates a defrayal from the state for the cost of an eligible state-required benefit;

(b) that the cost of the state-required benefit is not included in the premiums; and

(c) detail regarding the amount the carrier expects to receive from the state for defrayal of the state-required benefit.

(3) a carrier shall not factor the state-required benefits into the calculation for the "EHB Percent of Total Premium" field on the PBT, a carrier should treat the state-required benefit as if it does not exist for purposes of this field, so that the state-required benefits are excluded from the total premium from which the EHB percent of premium is calculated; and

(4) a carrier shall indicate in the "Benefits Information" field on the PBT that they cover the state-required benefits, marking the state-required benefit as "Not EHB" as the "EHB Variance Reason."

R590-283-5. Defrayal of State-Required Benefits.

(1) A carrier seeking a state-required benefit defrayal shall, on or before April 30th of each year, starting on April 30, 2021, submit to the commissioner a request that includes the following information:

- (a) the state-required benefit for which defrayal is sought;
- (b) the count of individuals who received services for the state-required benefit during the preceding calendar year; and
- (c) the amount incurred and paid by the carrier for the state-required benefit during the preceding calendar year.

(2) (a) The defrayal payments shall be based on an aggregate of the data received under Subsection (1) from all carriers.

(b) The defrayal payment to a carrier is calculated based on the sum of the total defrayable costs incurred across all carriers divided by the sum of the total count of individuals receiving defrayable services across all carriers. The result will be multiplied by the sum of the count of individuals receiving defrayable services for each carrier.

(3) Requests shall be submitted via the System for Electronic Rate and Form Filings, SERFF.

(4) State-required defrayal payments are paid in arrears for the prior calendar year.

(5) If legislative funding is less than the total amount of requested defrayals, all defrayal payments will be prorated. A carrier may include an adjustment to the next pricing year's rates to account for a legislative funding deficit. Any adjustment shall be clearly delineated in the actuarial memorandum.

R590-283-6. Reporting.

(1) This rule incorporates by reference the Utah Health Information Network's, UHIN, "Adaptive Behavior Services / Applied Behavior Analysis (ABA) Billing Standard" version 3.1. The standard is available on the Department's website at <https://insurance.utah.gov> or on UHIN's website at <https://uhin.org>.

(2) A carrier shall use the UHIN "Adaptive Behavior Services / Applied Behavior Analysis (ABA) Billing Standard" version 3.1 to identify and report claims subject to defrayal under R590-283-5(1)(c) and this section.

(3) For the commissioner to project defrayal costs, a carrier anticipating a defrayal payment shall submit to the commissioner:

- (a) on or before April 15th of each year, starting on April 15, 2020:
 - (i) the state-required benefit for which defrayal is sought;

(ii) the count of individuals who received services for the state-required benefit during the current calendar year; and

(iii) the amount incurred and paid by the carrier for the state-required benefit during the current calendar year.

(b) on or before November 15th of each year, starting on November 15, 2020:

(i) the state-required benefit for which defrayal is sought;

(ii) the count of individuals who received services for the state-required benefit during the current calendar year; and

(iii) the amount incurred and paid by the carrier for the state-required benefit during the current calendar year.

(c) Reports shall be submitted via the System for Electronic Rate and Form Filings, SERFF.

R590-283-7. Claims Auditing.

The commissioner may audit:

(1) a carrier's claims that are subject to defrayal; and

(2) a carrier's process for determining which claims are subject to defrayal.

R590-283-8. Penalties.

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

R590-283-9. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule for applicable policies issued or renewed on or after January 1, 2020.

R590-283-10. 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.