

**State of Utah**  
**Administrative Rule Analysis**  
 Revised May 2020

NOTICE OF PROPOSED RULE		
<b>TYPE OF RULE:</b> New ___; Amendment _x_; Repeal ___; Repeal and Reenact ___		
<b>Title No. - Rule No. - Section No.</b>		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R590-85</b>	<b>Filing No. (Office Use Only)</b>
<b>Changed to Admin. Code Ref. (R no.):</b>	<b>R</b>	

**Agency Information**

<b>1. Department:</b>		
<b>Agency:</b>	Insurance Department	
<b>Room no.:</b>	3110	
<b>Building:</b>	State Office Building	
<b>Street address:</b>	450 N. State St.	
<b>City, state:</b>	Salt Lake City, UT 84114	
<b>Mailing address:</b>	PO Box 146901	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6901	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Steve Gooch	801-538-3803	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
Accident and Health Insurance and Medicare Supplement Rates
<b>3. Purpose of the new rule or reason for the change</b> (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):
This rule is being amended to implement Section 31A-22-602 by establishing minimum loss ratios and set procedures for the filing of accident and health insurance and Medicare supplement premium rates.
<b>4. Summary of the new rule or change:</b>
The title of the rule is changed to reflect that it applies to all accident and health insurance and Medicare supplement rates. It clarifies that this rule does not apply to policies subject to Title 31A, Chapters 30 and 45 that comply with Rules R590-167, R590-277, and limited long-term care policies subject to Rule R590-285. The change to R590-85-5(1) sets the medical expense coverage minimum loss ratio for a non-renewable form at 65% and a short-term limited duration health insurance form at 75%. The enforcement date is removed because the rule is already in effect.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no anticipated cost or savings to the state budget. The department's insurance analysts will assume these standards into their daily reviews.
<b>B) Local governments:</b>
There is no anticipated cost or savings to local governments. This rule sets the minimum loss ratio for insurers that want to offer a short-term limited duration health insurance.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. This rule sets the minimum loss ratio for insurers that want to offer a short-term limited duration health insurance.

**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. If an insurer elects to offer short-term limited duration health insurance, it will need to comply with the minimum loss ratio as stated in this rule. However, this does not constitute money the insurer would pay to the state or another entity; rather, it is money that is set aside by the insurer to ensure it has sufficient funds to cover losses.

**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. This rule sets the minimum loss ratio for insurers that want to offer short-term limited duration health insurance.

**F) Compliance costs for affected persons:**

There are no compliance costs for any affected persons. If an insurer elects to offer short-term limited duration health insurance, it will need to comply with the minimum loss ratio as stated in this rule. However, this does not constitute money the insurer would pay to the state or another entity; rather, it is money that is set aside by the insurer to ensure it has sufficient funds to cover losses.

**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>FY2021</b>	<b>FY2022</b>	<b>FY2023</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>			
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 approval of regulatory impact analysis:**

The head of the Insurance Department, Tanji J. Northrup, has reviewed and approved this fiscal analysis.

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

The above analysis represents the Insurance Department's best estimate of the fiscal impact that this rule may have on businesses.

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

Tanji J. Northrup, Interim Insurance Commissioner

**Citation Information**

**7. 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):**

Section 31A-2-201	Section 31A-22-605	Section 31A-22-620

**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
<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Date Issued</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*):

	Second Incorporation
<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Date Issued</b>	
<b>Issue, or version</b>	

**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. 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.)

<b>A) Comments will be accepted until</b> (mm/dd/yyyy):	12/31/2020	
<b>B) A public hearing (optional) will be held:</b>		
<b>On</b> (mm/dd/yyyy):	<b>At</b> (hh:mm AM/PM):	<b>At</b> (place):

**10. This rule change MAY become effective on** (mm/dd/yyyy): 01/07/2021

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, 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.

**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.

<b>Agency head or designee, and title:</b>	Steve Gooch	<b>Date</b> (mm/dd/yyyy):	11/16/2020
--	-------------	---------------------------	------------

## **R590. Insurance, Administration.**

### **R590-85. ~~Individual~~ Accident and Health Insurance and ~~Individual and Group~~ Medicare Supplement Rates.**

#### **R590-85-1. Purpose and Authority.**

(1) The purpose of this rule is to implement Subsections 31A-22-602(2), 31A-22-605(4)(e), and 31A-22-620(3)(e) by establishing minimum loss ratios and implementing procedures for the filing of ~~[all individual]~~ accident and health insurance and ~~[all]~~ Medicare supplement premium rates, including the initial filing of rates, and any subsequent rate changes.

(2) This rule is promulgated pursuant to the authority vested in the commissioner by Subsections 31A-2-201(3)(a), ~~[and]~~ 31A-2-201.1(2), 31A-22-605(4)(e), and 31A-22-620(3)(e).

#### **R590-85-2. Applicability and Scope.**

(1) This rule shall apply to:

- (a) ~~[all]~~ an individual accident and health insurance [policies] policy except as excluded under Subsection R590-85-2(2); and
- (b) ~~[certificates issued under group]~~ a Medicare supplement [policies] policy.

(2) This rule does not apply to:

- (a) ~~[policies]~~ a policy subject to Title 31A, Chapters 30 and 45 that ~~[comply]~~ complies with Rules R590-167 and R590-277; ~~[and]~~
- (b) a long-term care [policies] policy subject to Rule R590-148; and
- (c) a limited long-term care policy subject to Rule R590-285 ~~[22]~~.

~~(3) The requirements contained in this rule shall be in addition to any other applicable rules previously adopted.~~

#### **R590-85-3. Definitions.**

(1) "Average ~~[A]~~ annual ~~[P]~~ premium ~~[P]~~ per ~~[P]~~ policy" means the average computed by the insurer based on an anticipated distribution of business by all applicable criteria having a price difference, such as age, sex, amount, dependent status, rider frequency, etc., except assuming an annual mode for all policies, for example, the fractional premium loading may not affect the average annual premium or anticipated loss ratio calculation.

(2) "Conditionally ~~[R]~~ renewable" (CR) means renewal can be declined by class, geographic area or for stated reasons other than deterioration of health.

(3) "Guaranteed ~~[R]~~ renewable" (GR) means renewal cannot be declined by the insurance company for any reason, but the insurance company can revise rates on a class basis.

(4) "Non-~~[C]~~ cancelable" (NC) means renewal cannot be declined nor can the rates be revised by the insurance company.

(5) "Non-renewable" (NR) means renewal is not an option.

(6) "Optionally ~~[R]~~ renewable" (OR) means renewal is at the option of the insurance company.

(7) "Qualified actuary" means a member in good standing of the American Academy of Actuaries.

#### **R590-85-4. General Requirements.**

(1) When Rate Filing is Required.

(a) Every filing for a policy, certificate, or endorsement affecting benefits shall be accompanied by a rate filing that complies with this rule.

(b) A rate filing is not required for an endorsement that has no rating effect.

(c) Any subsequent addition to or change in rates applicable to the policy, certificate, or endorsement shall also be filed prior to use.

(2) General Contents of All Rate Filings. Each rate submission shall include:

(a) rate sheets for current and proposed rates, if applicable, that are clearly identified;

(b) actuarial memorandum describing the basis on which rates were determined, which includes:

(i) description of the policy, benefits, renewability, general marketing methods, and issue age limits;

(ii) description of how rates were determined, including a general description and source of each assumption used;

(iii) estimated average annual premium per policy for Utah;

(iv) anticipated loss ratio of the present value of the expected benefits to the present value of the expected premiums over the entire period for which rates are computed to provide coverage. Interest shall be used in the calculation;

(v) minimum anticipated loss ratio presumed reasonable in Subsection R590-85-5(1); and

(vi) signed certification by a qualified actuary which states that to the best of the actuary's knowledge and judgment the rate filing is in compliance with the applicable laws and rules of ~~[the state of]~~ Utah and the benefits are reasonable in relation to the premiums charged; and

(c) a statement that the rates have been filed with and approved by the home state. If approval is not required by the home state, then alternative information which includes a list of the states to which the rates were submitted, the date submitted, and any responses, must be included.

(3) Previously Filed Form. Filing a rate change for a previously filed rate shall include the following:

(a) a statement of the scope and reason for the change;

(b) a description of how revised rates were determined, including the general description and source of each assumption used;

(c) an estimated average annual premium per policy in Utah, before and after the proposed rate increase;

(d) a comparison of Utah and average nationwide premiums, for representative rating cells based on the Utah distribution of

business;

- (e) a comparison of revised premiums with current scale;
- (f) a statement as to whether the filing applies to new business, in-force business, or both, and the reasons;
- (g) a detailed history of national experience, which includes the data in Subsection R590-85-4(4) [-]that shows on a yearly and

durational basis:

- (i) premiums received;
- (ii) earned premiums;
- (iii) benefits paid;
- (iv) incurred benefits;
- (v) increase in active life reserves;
- (vi) increase in claim reserves;
- (vii) incurred loss ratio;
- (viii) cumulative loss ratio; and
- (ix) any other available data the insurer may wish to provide;
- (h) detailed history of Utah experience, which includes the data in Subsection R590-85-4(4) [-]that shows on a yearly basis:
  - (i) earned premiums;
  - (ii) incurred benefits;
  - (iii) incurred loss ratio; and
  - (iv) cumulative loss ratio;
- (i) anticipated nationwide future loss ratio, which includes:
  - (i) projected premiums;
  - (ii) projected claims;[-and]
  - (iii) projected loss ratio; and
  - (iv) assumptions and calculations. Interest shall be used in the calculation;
- (j) anticipated Utah future loss ratio, which includes:
  - (i) projected premiums;
  - (ii) projected claims;[-and]
  - (iii) projected loss ratio; and
  - (iv) description of assumptions and calculations. Interest shall be used in the calculation;
- (k) cumulative past and projected future loss ratio and description of the calculation;
- (l) the number of policyholders [~~residing~~]in [~~the state of~~]Utah; and
- (m) the date and magnitude of all previous rate changes for Utah and nationwide.

(4) Experience Records

(a) An insurer shall maintain records of premiums collected, earned premiums, benefits paid, incurred benefits and reserves for each calendar year, for each policy form, and applicable endorsements. The records shall be maintained as required for the Accident and Health Policy Experience Exhibit.

(i) Separate data may be maintained for each endorsement to the extent appropriate.

(ii) Experience under policies that provide substantially similar coverage may be combined. The data shall be for all years of issue combined, for each calendar year of experience since the year the form was first issued.

(b) A rate revision must provide the information required in Subsection R590-85-4(4)(a) [-]on both a national and state basis.

(5) Evaluating Experience Data. In determining the credibility and appropriateness of experience data, due consideration must be given to all relevant factors, such as:

(a) statistical credibility of premiums and benefits, for example low exposure or low loss frequency;

(b) experience and projected trends relative to the kind of coverage, for example: [-]persistence, inflation in medical expenses, or economic cycles affecting disability income experience;

(c) concentration of experience at early policy durations where select morbidity and preliminary term reserves are applicable and where loss ratios are expected to be substantially lower than at later policy durations; and

(d) the mix of business by risk classification.

(6) Implementation of a filed rate increase must be initiated within 12 months from the filed date. A company forfeits the right to implement an increase if [~~they~~]it fails to initiate implementation within 12 months of the filed date.

(7) A filing may be rejected or prohibited if the company fails to submit all required information.

**R590-85-5. Reasonableness of Benefits in Relation to Premium.**

(1) With respect to a new form under which the average annual premium per policy is expected to be at least \$200, the anticipated loss ratio shall be at least as great as shown [~~below~~]in this subsection:

(a) Medical Expense Coverage. Except as provided in Subsections R590-85-5(1)(d) and R590-85-5(1)(e), [F]the minimum loss ratio for:

(i) a non-renewable form is 65%;

(ii) an optionally renewable form is 60%;

(iii) a conditionally renewable form is 55%;

(~~ii~~iv) a guaranteed renewable form is 55%; and

(~~i~~v) a non-cancelable form is 50%.

(b) Income Replacement. The minimum loss ratio for:

(i) a non-renewable form is 65%;

(ii) an optionally renewable form is 60%;

(iii) a conditionally renewable form is 55%;

(~~ii~~iv) a guaranteed renewable form is 50%; and

(~~i~~v) a non-cancelable form is 45%.

(c) For a policy form, including endorsements, under which the expected average annual premium per policy is:

(i) \$100 or more but less than \$200, subtract five percentage points; or

(ii) less than \$100 subtract 10 percentage points.

(d) For a Medicare supplement policy~~ies~~, benefits shall be deemed reasonable in relation to premiums provided the anticipated loss ratio meets the requirements of ~~Rule~~Section R590-146-14.

(e) The minimum loss ratio for a short-term limited duration health insurance form is 75%

(2) Rate Changes. With respect to the filing of a rate change for a previously filed form, the standards of this subsection shall be met.

(a) ~~Both~~Subsections R590-85-5(2)(a)(i) and R590-85-5(2)(a)(ii) ~~as follows~~shall be at least as great as the standards in Subsection R590-85-5(1) and shall include interest in the calculation of benefits, premiums, and present values:

(i) the anticipated loss ratio over the entire period for which the changed rates are computed to provide coverage; and

(ii) the ratio of Subsections R590-85-5(2)(a)(ii)(A) and R590-85-5(2)(a)(ii)(B); where

(A) is the sum of the accumulated benefits, from the original effective date of the form to the effective date of the change, and the present value of future benefits; and

(B) is the sum of the accumulated premiums from the original effective date of the form to the effective date of the change and the present value of future premiums, the present values to be taken over the entire period for which the changed rates are computed to provide coverage, and the accumulated benefits and premiums to include an explicit estimate of the actual benefits and premiums from the last date an accounting was made to the effective date of the change.

(b) If an insurer wishes to charge a premium for policies issued on or after the effective date of the change, which is different from the premium charged for the policies issued prior to the change date, then with respect to policies issued prior to the effective date of the change, the requirements of Subsection R590-85-5(2)(a) must be satisfied, and with respect to policies issued on and after the effective date of the change, the standards are the same as in Subsection R590-85-5(1), except that the average annual premium shall be determined based on an actual rather than an anticipated distribution of business.

(c) ~~Companies~~A company must review ~~their~~its experience periodically and file rate changes, as appropriate, in a timely manner to avoid the necessity of later filing of exceptionally large rate increases. A rate filing requesting an increase may be prohibited if a company has failed to file rate changes in a timely manner.

#### **R590-85-6. ~~Enforcement Date.~~**

~~The commissioner will begin enforcing the revised provision of this rule 45 days from the rule's effective date.~~

#### **~~R590-85-7. Separability/Severability.~~**

~~If any provision of this rule, Rule R590-85, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule which 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. If any provision of this rule or the application of it to any person is for any reason held to be invalid, the remainder of the rule and the application of any provision to other persons or circumstances may not be affected.~~

**KEY: insurance law**

**Date of Enactment or Last Substantive Amendment: January 31, 2006**

**Notice of Continuation: April 4, 2017**

**Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-22-605; 31A-22-620**