

R590. Insurance, Administration.

R590-235. Medicare Prescription Drug Plan.

R590-235-1. Authority.

This rule is promulgated pursuant to Subsection 31A-2-201 (3), wherein the Commissioner is empowered to administer and enforce Title 31A, and to make administrative rules to implement the provisions of Title 31A.

R590-235-2. Purpose and Scope.

(1) The purpose of this rule is to establish licensing and regulatory requirements in the State of Utah for a stand-alone prescription drug plan (PDP).

(a) Title I of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, commonly referred to as the Medicare Modernization Act (MMA), created requirements for a new type of organization called a Prescription Drug Plan (PDP) to provide Medicare Part D benefits.

(b) Base requirements for contracts with PDP sponsors include state licensure as a risk bearing entity in the jurisdiction where the entity proposes to serve Medicare Part D beneficiaries.

(2) This rule applies to all entities that offer a stand alone PDP in the State of Utah.

R590-235-3. Definitions.

In addition to the definitions of Section 31A-1-301, the following definitions shall apply for the purpose of this rule:

(1) "Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

(2) "Stand-Alone Medicare Prescription Drug Plan (PDP):"

(a) means a prescription drug plan, offered by insurers and other private companies to provide Medicare Part D benefits under the Medicare Modernization Act; and

(b) does not include a Medicare prescription drug plan included in the benefit package offered by a Medicare Advantage company.

(3) "Medicare Advantage Company" means a company selling a Medicare authorized product replacing Medicare Part A and Part B benefits.

R590-235-4. Licensure and Regulatory Requirements.

A PDP may be licensed and regulated as either a Utah domiciled health maintenance organization (HMO), a limited health plan (LHP), or an indemnity insurer, either Utah domiciled or foreign.

(1) Regulatory requirements for a Utah domiciled PDP organized as:

(a) an HMO or LHP are established by Title 31A, Chapter 8;

(b) an indemnity insurer are established by Title 31A, Chapter 5.

(2) Regulatory requirements for a foreign indemnity insurer are established by Title 31A, Chapter 14.

(3) A PDP is required to file Quarterly and Annual Statement Blanks in accordance with the instructions provided by the National Association of Insurance Commissioners (NAIC) and in accordance with Statutory Accounting Principles (SAP).

(4) A PDP applicant must apply for licensure using the NAIC Uniform Certificate of Authority Application forms:

(a) Primary Application Form for a domestic insurer PDP; or

(b) Expansion Application Form for a foreign indemnity insurer PDP.

R590-235-5. Minimum Capital and Surplus Requirements.

(1) The minimum capital or permanent surplus requirement is:

(a) \$400,000 for indemnity insurers, whether domestic or foreign;

(b) \$100,000 for an HMO; and

(c) for an LHP:

(i) may not be less than \$10,000 or exceed \$100,000.

(ii) the actual amount is to be set by the commissioner after a hearing and consideration of various factors.

(2) Risk-Based Capital (RBC) requirements, as outlined in Section 31A-17-602, are applicable regardless of the license type.

R590-235-6. Enforcement Date.

The commissioner will begin enforcing the provisions of this rule 45 days after adoption.

R590-235-7. Severability.

If any provision of this rule or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances may not be affected by it.

KEY: prescription drug plans

Date of Enactment or Last Substantive Amendment: June 7, 2006

Notice of Continuation: April 16, 2021

Authorizing, and Implemented or Interpreted Law: 31A-2-201

