

R590. Insurance, Administration.

R590-239. Exemption of Student Health Centers From Insurance Code.

R590-239-1. Authority.

This rule is promulgated and adopted pursuant to Subsection 31A-1-103(3) (d) and Section 31A-2-201.

R590-239-2. Purpose and Scope.

(1) The purpose of this rule is to exempt student health centers established by institutions of higher education from regulation under the Utah Insurance Code.

(2) Health insurance from an insurer made available by an institution to its students is not exempt from provisions of the Utah Insurance Code under this rule, even if use of the institution's student health center is an integral part of the health care coverage under the insurer's policy.

R590-239-3. Definitions.

(1) All definitions in Section 31A-1-301 are incorporated by reference.

(2) "Board" means the State Board of Regents established in Section 53B-1-103.

(3) "Eligible recipient" means:

(a) an eligible student;

(b) a spouse of an eligible student;

(c) a child of, dependent of, or child placed for adoption with, an eligible student;

(d) the institution's officers, faculty, and employees; or

(e) upon application by the institution or the institution's student health center, other persons approved by written order of the commissioner.

(4) "Eligible student" is as defined by each institution, but shall, at a minimum, require that the student be enrolled with the institution.

(5) "Health care provider" means a person who provides health care services.

(6) "Health care services" means "health care," as defined in Section 31A-1-301.

(7) "Institution" means an institution of higher education or postsecondary educational institute that consists of the following:

(a) an institution described in Section 53B-1-102; or

(b) an institution of high education that has been accredited by the Northwest Commission on Colleges and Universities.

(8) "Student health center" means a facility that is operated to provide health care services to eligible recipients:

(a) by that institution or pursuant to contract with that institution;

(b) that employs health care providers, or contracts with health care providers, which may make referrals to other health care providers;

(c) is funded, at least in part, by payment from one of the following sources, which payment grants access to the student health center during the period of time for which the eligible student is registered:

(i) a fee assessed to and paid by each eligible student at registration, which; or

(ii) the tuition paid by the eligible student;

(d) may accept insurance payments, or assist users in completing claims forms for insurance claims; and

(e) may require eligible recipients to pay;

(i) an additional fee for each time the student health center is visited;

(ii) an additional fee for specialty services;

(iii) an additional fee for medical equipment; or

(iv) an additional fee for medication received at the student health center.

(9) "Utah Insurance Code" means Title 31A, Utah Code Annotated.

R590-239-4. Supporting Facts.

(1) Many institutions of higher education establish student health centers to provide for limited health care needs to eligible recipients. A student health center arranges for health care services to be provided by employing health care providers at the student health center, or by contracting with health care providers to provide health care services at the student health center or other facilities, which are usually located in close proximity to the institution's campus. The student health center may also contract with specialists to come to the student health center on a periodic basis, or to provide services off-campus when the student health center provides a referral to that specialist.

(2) The operation of the student health center is paid at least in part either out of funds generated by the tuition of eligible students or from a fee for that express purpose that each eligible student is required to pay at the beginning of the quarter, semester, or school year, usually at the same time tuition and other fees are required to be paid. In return, the eligible student has the right to receive these limited health care services at the student health center during the ensuing quarter, semester, or school year. Eligible students usually pay a nominal fee each time they use the facility.

(3) The student health center does not provide all services

required of a health maintenance organizations under the definition of "basic health care services," but does enter into arrangements with at least some of the persons listed in the definition of a limited health plan to provide health care services to the institution's eligible recipients, 31A-8-101. Therefore, while a student health center is not within the definition of a health maintenance organization, it does come within the definition of limited health plan. As such, unless exempted by statute or administrative rule, a student health center is subject to regulation under the Insurance Code.

(4) Institutions have an interest in providing their eligible students with basic preventive and remedial health care in order to reduce the possibility that progress toward a degree will be impeded by unattended medical needs. In addition, institutions have an interest in mitigating the potential economic hardships placed on health care providers directly, and the public in general, from the institutions' eligible students receiving medical services and then not being able to pay for those services.

(5) To meet these basic medical needs of their students, and reduce any potential negative impact on local health care providers and the public, many institutions have established student health centers. Other than perhaps treating a visitor on campus occasionally on an emergency basis, student health centers provide health care services only to eligible students at institutions, and, in some cases, to other eligible recipients. Providing health care services or arranging for health care services for students is not the primary purpose of institutions of higher education; it is only incidental to the institutions' primary purpose, which is to educate those that matriculate with the institution. Student health centers are not established to enable the institutions of higher education to make a profit from providing health care services at the student health center.

(6) An institution is either a state institution under the direct control of, and supervised by, the Board, or it must be accredited by a regional accreditation organization. In order to be accredited, an institution must meet strict accounting standards, and be able to demonstrate it is financially solid. An institution must therefore comply with the strict accounting and financial requirements of the Board, or of a regional accrediting entity, which would include the need to reflect on the financial statements of the institution the liability for any risks the institution assumes, or costs the institutions may incur, for its student health center. Any shortfall in providing health care services at the student health center would become the obligation of the institution. The institution can and must protect itself from financial shortfalls that could cause the providers to be

left unpaid, and the students without health care services at the student health center; the institution does this by fixing the institution's liability either by employing the health care providers, or by contracting with health care providers for a fixed fee for the number of hours the health care provider is at the student health center, regardless of the number of patients/students the health care provider might see during that time. Since only limited health care services are provided at the student health center, there is little or no likelihood the institution will need to cover expenses such as major surgery, or extended hospital stays.

R590-239-5. Rule and Findings.

(1) Unless exempted from regulation by statute or by this rule, a student health center is a limited health plan, as defined in Chapter 8 of the Utah Insurance Code, and must comply with the provisions of the Utah Insurance Code.

(2) Health insurance made available to an institution's students through an insurer is not exempt from provisions of the Utah Insurance Code under this rule, even if:

(i) use of the institution's student health center is an integral part of the health care coverage offered to the institution's students; or

(ii) the health insurance offered to the institution's students requires initial treatment for any illness or injury be at the institution's student health center.

(3) Pursuant to Subsection 31A-1-103(3)(d)(i), the commissioner finds that student health centers established by institutions do not require regulation for the protection of the interests of the residents of this state and that student health centers are exempt from regulation under the Utah Insurance Code.

R590-239-6. Enforcement Date.

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

R590-239-7. Severability.

If any provision of this rule or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.

KEY: health insurance exemption

Date of Enactment or Last Substantive Amendment: April 9, 2007

Notice of Continuation: April 4, 2017

Authorizing, and Implemented or Interpreted Law: 31A-1-103; 31A-2-201

