

R590. Insurance, Administration.

R590-240. Procedure to Obtain Exemption of Student Health Programs From Insurance Code.

R590-240-1. Authority.

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

R590-240-2. Purpose and Scope.

(1) The purpose of this rule is to exempt student health programs 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:

(i) the insurer's policy is integrated into the overall student health program offered by the institution to its students; or

(ii) use of the institution's student health center is an integral, or mandatory, part of health care coverage under the insurer's policy.

R590-240-3. 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 member" means:

(a) an eligible student;

(b) a spouse of an eligible student; or

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

(4) "Eligible recipient" means:

(a) an eligible member;

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

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

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

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

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

(8) "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 higher education that has been accredited by the Northwest Commission on Colleges and Universities.

(9) "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; 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.

(10)(a) "Student health program" means a plan organized, established, or adopted, by an institution to provide or arrange for health care services for eligible members.

(b) A "student health program" may include providing:

(i) coverage for limited health care services;

(ii) coverage for health care services on an emergency basis; or

(iii) coverage for health care services by out-of-area health care providers under the following situations:

(A) on an emergency basis, where a prudent layperson would expect the absence of immediate medical attention to result in placing the eligible member's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part;

(B) during periods when the individual is not enrolled in any classes at the institution, but is still matriculated with the institution. Such periods may include time between semesters or quarters, traditional breaks for the summer, or time away from the institution while attending another higher education institution under a plan approved by the institution; and

(C) during periods when the individual is enrolled in classes at the institution, but is not living within commuting distance of the institution, such as while participating in an internship program.

(11)(a) "Supplemental health care services" means health care services provided by the student health program in addition to those available at a student health center.

(b) "Supplemental health care services" includes health care services provided by contract between:

(i) the institution, and

(ii) any of the following or any combination of the following:

(A) a healthcare provider;

(B) a clinic or other association of health care providers;

(C) a network plan; or

(D) an insurer authorized to provide health insurance.

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

R590-240-4. Supporting Facts.

(1) Student health programs are offered only to eligible members at institutions. These institutions have an interest in providing affordable health care coverage to their students in order to enable the students to receive limited health care to ensure that progress toward a degree or certificate is not impeded by unattended medical needs. In some instances, student health programs may also be offered to the spouses of students and other dependents of students, as well.

(2) Student health programs are not established to enable the institutions to make a profit from providing health care coverage. Providing or arranging for health care services for students is not the primary purpose of institutions; it is only incidental to the institutions' primary purpose, which is to educate those that matriculate with the institution. In addition, the economic impact on health care providers directly, and the public indirectly, from students receiving medical services and then not being able to pay for those services, is mitigated by providing students at institutions with access to affordable health care coverage through student health programs.

(3) An institution is either a state institution under the direct control of, and supervised by, the Board, or it must be accredited by the Northwest Commission on Colleges and Universities. 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 the Northwest Commission on Colleges and Universities, which would

include the need to reflect on the financial statements of the institution any liability for risks the institution assumes, or costs the institutions may incur, for its student health program. Any shortfall in providing health care services at the student health center would become the obligation of the institution.

R590-240-5. Exemption Requirements.

A student health program may be exempted from the provisions of the Utah Insurance Code if it meets all of the requirements of this Section 5, applies for exemption under Section 6, and the exemption is granted.

- (1) A student health program must:
 - (a) be established by an institution;
 - (b) have assets that are owned by:
 - (i) an institution;
 - (ii) a trust; or
 - (iii) the trustees, in their fiduciary capacities, of a trust established by an institution; and
 - (c) be operated by:
 - (i) an institution; or
 - (ii) the institution's authorized agent or affiliate.
- (2) The primary purpose of the institution must be higher education, and not the providing of a student health program.
- (3) Payment of covered claims of the student health program must be secured by adequate assets:
 - (a) that are:
 - (i) secured by being:
 - (A) pledged;
 - (B) guaranteed;
 - (C) contributed;
 - (D) placed in trust; or
 - (E) using a combination of Subsections 5(3)(a)(i)(A), 5(3)(a)(i)(B), 5(3)(a)(i)(C), and 5(3)(a)(i)(D); and
 - (ii) secured under Subsection 5(3)(a)(i) by:
 - (A) the student health program;
 - (B) the institution that organizes, adopts, or establishes the student health program;
 - (C) the owner of the institution described in Subsection 5(3)(a)(ii)(B);
 - (D) an affiliate of the entity described in Subsection 5(3)(a)(ii)(C); or
 - (E) a combination of the entities described in Subsections 5(3)(a)(ii)(A), 5(3)(a)(ii)(B), 5(3)(a)(ii)(C), and 5(3)(a)(ii)(D); and
 - (b)(i) in an amount and type that would be required under Chapter 17 of the Utah Insurance Code; or
 - (ii) as approved by the commissioner by written order; and

(c) under such terms and conditions as the commissioner determines by written order.

(4) The student health program may not be offered to or enroll anyone other than an eligible member.

(5) The student health program must have a comprehensive legal structure that demonstrates that:

(a) the assets described in Subsection 5(3) will be administered in a fiduciary manner to assure that assets are available to provide eligible health care services and to provide payments to health care providers, as outlined in any contracts between the student health program and health care providers;

(b) the student health program will be administered by an experienced administrator; and

(c) the student health program shall be administered according to contracts between:

(i) (A) (I) the student health program; or

(II) the institution; or

(III) both the student health program and the institution;

and

(B) the enrollees; and

(ii) (A) (I) the student health program; or

(II) the institution; or

(III) both the student health program and the institution;

and

(B) health care providers.

(6) Except for emergency health care services, or out-of-area or out-of-country health care providers, health care services for those enrolled in the student health program must be provided:

(a) at a student health center; or

(b) pursuant to a contract with health care service providers, by which those health care providers will provide health care services upon a referral from the student health center.

(7) Any supplemental health care services provided by the student health program must:

(a) be obtained from an insurer authorized to provide health insurance;

(b) be backed by assets under the conditions set forth in Subsection 5(3); or

(c) use a combination of Subsections 5(7) (a) and 5(7) (b).

(8) The student health program must provide review procedures substantially similar, and materially equal, to those presently in effect for insurers, health maintenance organizations, and limited health programs.

(9) The student health program or the institution or both shall annually provide the department an informational copy of all current policies, booklets, and advertising.

(10) The student health program or the institution or both must state in a prominent and appropriate place in all policies, contracts, booklets, explanatory material, advertising or other promotional material, and any presentations relating to solicitations of the student health program, that the student health program is not insurance, and the student health program has been exempted from regulation under the Utah Insurance Code, and must cite the date, docket number, and title of the docket by which the exemption was granted.

(11) The student health program must reduce any applicable preexisting condition provisions for any individual covered by the student health program by the amount of previous creditable coverage.

(12) The student health program must provide a certificate of creditable coverage upon request by an individual who was covered by the student health program.

R590-240-6. Procedure for Obtaining Exemption.

(1) An institution desiring to have its student health program exempted from the provisions of the Utah Insurance Code shall file with the Utah Insurance Department an application in a form prescribed by the commissioner for an order exempting the student health program, and shall provide verifiable documentation in support of its application, including documentation to support the exemption requirements in Section 5 have been met. The application must provide assurance the institution has sufficient assets placed in trust, or otherwise pledged or guaranteed under Section 3, under conditions acceptable to the commissioner, to meet any liability the institution may have for its student health program.

(2) The commissioner may require the following:

(a) additional evidence or information, to be provided by the institution;

(b) an examination of the student health program by the department, the costs of which shall be borne by the institution; or

(c) a hearing on the application.

(3) Upon finding that the student health program complies with the provisions of this rule, the commissioner may issue an order exempting the student health program from the provisions of the Utah Insurance Code. The commissioner may place any restrictions or conditions upon the exemption the commissioner believes to be necessary to protect the interests of the residents of this state.

(4) A student health program is not exempt from the Utah Insurance Code unless the commissioner has issued a written order explicitly stating the student health program is exempt from the

Utah Insurance Code.

(5) The department shall retain continuing jurisdiction over the institution's student health program to assure compliance with the terms and conditions in Section 5, including any changes in the law or the facts upon which the exemption is granted.

R590-240-7. Rule and Findings.

(1) A student health program is an insurer as defined in Section 31A-1-301, and must comply with the requirements of the Utah Insurance Code unless it is exempted from regulation by statute or by this rule.

(2) Pursuant to Subsection 31A-1-103(3)(d)(i), the commissioner finds that a student health program which operates in accordance with the provisions of Section 5, and obtains an order of exemption under Section 6, does not require regulation for the protection of the interests of the residents of this state, and that such student health program is exempt from regulation under the Utah Insurance Code.

(3) If the institution assumes any risk of the student health program, the institution must:

(i) apply for authority to conduct the business of an insurer, or

(ii) apply to the commissioner for an exemption under this rule.

(4) Health insurance from an insurer made available by an institution to its eligible members is not exempt from the Utah Insurance Code under this rule, even if the health insurance from a health insurer is integrated into the overall student health program offered by the institution, or use of the institution's student health center is an integral or required part of the health care coverage under the insurer's policy.

(5) Any inconsistencies between the provisions of this rule and any order previously issued exempting a student health program from regulation under the Utah Insurance Code are resolved by incorporating the provisions of this rule.

R590-240-8. Enforcement Date.

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

R590-240-9. 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 exemptions

Date of Enactment or Last Substantive Amendment: August 8, 2007

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