

R590. Insurance, Administration.

R590-266. Utah Essential Health Benefits Package.

R590-266-1. Authority.

This rule is promulgated pursuant to Subsections 31A-2-201(3) (a) and 31A-2-212(5) wherein the commissioner is directed to adopt a rule for purposes of designating the essential health benefits for Utah.

R590-266-2. Purpose and Scope.

(1) The purpose of this rule is to designate an essential health benefits package in Utah as required by Section 1302 of the Patient Protection and Affordable Care Act of 2010, the Health Care Education Reconciliation Act of 2010, and related federal regulations and guidance (PPACA).

(2) This rule applies to all non-grandfathered individual and small employer health benefit plans issued or renewed on or after January 1, 2014.

R590-266-3. Definitions.

In addition to the definitions in Sections 31A-1-301 and 31A-30-103, the following definitions shall apply for the purpose of this rule:

(1) "Essential health benefits" means the following health care service categories that must be included in non-grandfathered individual and small employer health benefit plans beginning January 1, 2014:

- (a) ambulatory patient services;
- (b) emergency services;
- (c) hospitalization;
- (d) maternity and newborn care;
- (e) mental health and substance use disorder services, including behavioral health treatment;
- (f) prescription drugs;
- (g) rehabilitative and habilitative services and devices;
- (h) laboratory services;
- (i) preventive and wellness services and chronic disease management; and
- (j) pediatric services, including oral and vision care.

(2) "Grandfathered health plan" means an individual or small employer health benefit plan that:

- (a) was in existence when the PPACA was enacted on March 23, 2010;
- (b) has not had any significant changes that reduce benefits or increase costs to consumer including:
 - (i) a significant cut or reduction in benefits, such as excluding coverage for people with diabetes;
 - (ii) an increase in co-pays by more than \$5, adjusted

annually for medical inflation, or a percentage equal to medical inflation plus 15%;

(iii) the employer reduces contributions by more than five percentage points; or

(iv) reducing annual dollar limits, or adding a new limit; and

(c) the insured has received notification from the carrier that their health benefit plan is a grandfathered plan.

(3) "Habilitative" means health care services that help a person keep, learn, or improve skills and functioning for daily living. Habilitative services may include physical therapy, occupational therapy, speech-language pathology, and other services.

(4) "Non-Grandfathered health plan" means an individual or small employer health benefit plan:

(a) that is issued after the PPACA was enacted on March 23, 2010; or

(b) a grandfathered health plan that has made significant changes that reduce benefits or increase costs to consumers that has caused the plan to lose the grandfathered status as provided in (2)(b).

(5) "Rehabilitative" means the treatment of disease, injury, developmental delay, or other cause, by physical agents and methods to assist in the rehabilitation of normal physical bodily function, that is goal-oriented and where the person has potential for functional improvement and ability to progress.

(6) "Utah Essential Health Benefits Package" means the benefits designated in this rule by the commissioner as essential health benefits in non-grandfathered plans for the purposes of the PPACA in Utah.

R590-266-4. Utah Essential Health Benefits.

(1)(a) The commissioner hereby designates the PEHP Utah Basic Plus plan as the Utah Essential Health Benefits Package for purposes of the PPACA in Utah.

(b) The PEHP Utah Basic Plus 2013 Plan as incorporated herein and available at <https://insurance.utah.gov/consumer/health/reform>.

(c) The PEHP Utah Basic Plus 2013 Plan was issued on July 1, 2013. Some of the benchmark plan benefits may not comply with current state or federal requirements.

(2)(a) Except as provided in Subsection (b) and (c), an individual or small employer carrier who issues or renews a non-grandfathered plan on or after January 1, 2014, must include at a minimum the benefits of the Utah Essential Health Benefits Package.

(b) A carrier may substitute coverage provided in the Utah

Essential Health Benefits Package as long as substitutions are actuarially equivalent and complies with the standards set forth in 42 CFR 457.431.

(c) A health benefit plan may exclude the pediatric dental essential health benefit if there is at least one carrier offering a certified stand-alone dental plan that provides the pediatric dental essential health benefit in the PEHP Utah Basic Plus 2013 Plan.

(3) This rule does not prohibit an individual or small employer carrier from offering a non-grandfathered plan with benefits in addition to the Utah Essential Health Benefits Package.

R590-266-5. Penalties.

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

R590-266-6. Severability.

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

KEY: essential health benefit, insurance

Date of Enactment or Last Substantive Amendment: January 10, 2018

Notice of Continuation: October 16, 2017

Authorizing, and Implemented or Interpreted Law: 31A-30-201(3)(a); 31A-2-212(5)