

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at <http://www.rules.utah.gov/publicat/bulletin.htm>. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3764. Additional rulemaking information and electronic versions of all administrative rule publications are available at <http://www.rules.utah.gov/>.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit <http://www.rules.utah.gov/publicat/digest.htm> for additional information.

Division of Administrative Rules, Salt Lake City 84114

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EXECUTIVE DOCUMENTS

Under authority granted by the Utah Constitution and various federal and state statutes, the Governor periodically issues **EXECUTIVE DOCUMENTS**, which can be categorized as either Executive Orders, Proclamations, and Declarations. Executive Orders set policy for the executive branch; create boards and commissions; provide for the transfer of authority; or otherwise interpret, implement, or give administrative effect to a provision of the Constitution, state law or executive policy. Proclamations call special or extraordinary legislative sessions; designate classes of cities; publish states-of-emergency; promulgate other official formal public announcements or functions; or publicly avow or cause certain matters of state government to be made generally known. Declarations designate special days, weeks or other time periods; call attention to or recognize people, groups, organizations, functions, or similar actions having a public purpose; or invoke specific legislative purposes (such as the declaration of an agricultural disaster).

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Division of Administrative Rules for publication and distribution.

Governor's Executive Order EO/012/2013: Veterans Transition Support

EXECUTIVE ORDER

Veterans Transition Support

WHEREAS, the people of Utah have a proud tradition of answering the call to serve in our nation's armed forces, completing tours of service on active duty, in the reserve forces, and in the National Guard, serving in the United States Army, Navy, Marine Corps, Air Force and Coast Guard;

WHEREAS, countless individuals, businesses, government entities and community partners have demonstrated steadfast dedication to supporting our veterans and returning troops as they transition to civilian life;

WHEREAS, Utah is home to more than 165,000 veterans, military personnel, National Guard Members and Reservists;

WHEREAS, Utah is home to Hill Air Force Base, U.S. Army Dugway Proving Ground, U.S. Army Tooele Army Depot, Camp Williams, Fort Douglas, National Guard armories and reserve facilities, where active duty personnel, guard members and reservists train, prepare and stand ready to defend our freedoms anywhere in the world;

WHEREAS, the unemployment rate among veterans in our state remains higher than the general rate of unemployment within the great State of Utah;

WHEREAS, several thousand Utah National Guard Members and military reservists have been deployed since 9-11, including a large number serving multiple times, and returned home upon completing their missions;

WHEREAS, Utah's robust and expanding economy attracts new businesses and creates new career opportunities for citizens, including veterans;

WHEREAS, military veterans offer a unique set of skills, character traits and leadership experience that prepare them for continued service to our community;

WHEREAS, Senate Bill 38 - Reauthorization of Veterans Reintegration Task Force - was signed into law on March 22, 2013, with the intent of creating a statewide action plan for assisting veterans and their families with reintegration into communities; finding employment; pursuing education; and locating services for veterans;

WHEREAS, the government of Utah should lead by example and be a model employer to our veterans;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, by virtue of the power vested in me by the Constitution of the State of Utah, do, effective immediately, hereby order and direct:

1. The Department of Human Resource Management (DHRM) in conjunction with the Department of Workforce Services (DWS) and the Utah Department of Veterans and Military Affairs (UDVMA) to:
 - a. Conduct an analysis of the state's workforce to determine the percentage of people that have veteran status.
 - b. Produce a veteran employment profile for each agency of state government and share the profile with agency leadership.
 - c. Develop statewide strategies that are intended to increase and maintain the employment of veterans.
 - d. Review recruitment and selection outcomes to ensure that Utah Code and business practices regarding veterans preference have a desirable impact on the hiring of veterans into the state's workforce.
 - e. Increase outreach to veterans and partner with veterans' groups to enhance the visibility and accessibility of state jobs to veterans.
 - f. Train human resource personnel and agency hiring managers on programs and strategies for hiring veterans.
2. Each executive branch cabinet agency of Utah state government to:
 - a. Review the veteran employment profile for their agency.
 - b. Work with their assigned human resource manager to develop strategies for increasing and/or maintaining the employment of veterans within the agency.
 - c. Ensure that all agency hiring managers understand the strategies the agency has for increasing or maintaining the employment of veterans.

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Capitol in Salt Lake City, Utah, this 8th day of November 2013.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

EO/012/2013

End of the Executive Documents Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between November 02, 2013, 12:00 a.m., and November 15, 2013, 11:59 p.m. are included in this, the December 01, 2013, issue of the *Utah State Bulletin*.

In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them (~~example~~). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Division of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least December 31, 2013. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through March 31, 2014, the agency may notify the Division of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

The public, interest groups, and governmental agencies are invited to review and comment on **PROPOSED RULES**. *Comment may be directed to the contact person identified on the **RULE ANALYSIS** for each rule.*

PROPOSED RULES are governed by Section 63G-3-301, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5a, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page

Commerce, Consumer Protection
R152-26
Telephone Fraud Prevention Act

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 38125
 FILED: 11/08/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 245 (1st Substitute, passed in the 2013 General Legislative Session) requires that an applicant for registration or for renewal of registration as a telephone soliciting business provide correct and complete information. If the applicant's information changes, or is incomplete, the applicant must correct the application. The division is required to establish by rule the process by which the application may be corrected.

SUMMARY OF THE RULE OR CHANGE: A definition of "durable goods" is added at Subsection R152-26-3(4). The process for correcting an application is added at Subsection R152-26-5(5). Limitations on correcting an application are stated at Subsection R152-26-5(5)(b).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 13-2-5 and Section 13-26-3

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There should be no cost or savings to the state government. The process of evaluating applications and possible corrections can be accommodated in the division's current budget.
- ◆ LOCAL GOVERNMENTS: There should be no cost or savings to local governments. Local governments do not register as telephone soliciting businesses and are not affected by this rule.
- ◆ SMALL BUSINESSES: Small businesses that register as telephone soliciting businesses will only be affected by this change in the event they need to correct an application. Correcting an application should be the matter of a few moments work with negligible cost.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons that register as telephone soliciting businesses will only be affected by this change in the event they need to correct an application. Correcting an application should be the matter of a few moments work with negligible cost.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Persons that register as telephone soliciting businesses will only be affected by this change in the event they need to correct an application. Correcting an application should be the matter of a few moments work with negligible cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Fiscal impact for business is limited to time and resources necessary to correct an application in the event that it is incomplete or provides incorrect information. This impact should be minimal.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

COMMERCE
 CONSUMER PROTECTION
 HEBER M WELLS BLDG
 160 E 300 S
 SALT LAKE CITY, UT 84111-2316
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Angela Hendricks by phone at 801-530-6035, by FAX at 801-538-6001, or by Internet E-mail at ahendricks@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2014

AUTHORIZED BY: Daniel O'Bannon, Director

R152. Commerce, Consumer Protection.
R152-26. Telephone Fraud Prevention Act.
R152-26-3. Definitions.

The following terms, in addition to the definitions appearing in Section 13-26-2, shall be used in construing this rule.

- (1) "Director" means the director of the Utah Department of Commerce, Division of Consumer Protection.
- (2) "Division" means the Utah Department of Commerce, Division of Consumer Protection.
- (3) "Registrant" means any person who has submitted an application for registration to the division pursuant to Section 13-26-3.
- (4) "Durable goods" means goods likely to be used for three years or more.

R152-26-5. Registration.

- (1) A registrant shall submit an application for registration only on the form authorized by the division. An application may be summarily denied if:
 - (a) it is submitted on a form not authorized by the division;
 - (b) it is submitted on the authorized form but it is not legible; or
 - (c) it is submitted on the authorized form but it is incomplete in some material respect.
- (2) The application shall include the following:
 - (a) the registrant's name, address, telephone number and facsimile number, if any;
 - (b) the names, addresses, birth dates and places, and social security numbers of all registrant's officers, directors, members, principals and/or key employees;

(c) the registrant's previous business addresses during the previous ten years;

(d) other names, if any, that the registrant does business under;

(e) identification of all licenses or permits currently held by the registrant and any that have been revoked or suspended;

(f) disclosure of any judgment, injunctive order or conviction of any of registrant's officers, directors, members, principals, or key-employees of racketeering or any offense involving fraud, theft, embezzlement, fraudulent conversion of property, misappropriation of property or other similar crimes;

(g) the name and address of the registrant's registered agent;

(h) the location where telephone numbers are to be dialed; and

(i) a description of the goods or services that are to be the subject of the telephone solicitation.

(3) Each registrant shall submit copies of the following documents with their application:

(a) All scripts to be used in the telephone solicitation;

(b) Articles of incorporation or other organizational documentation showing registrant's current legal status.

(4) At the option of the director, the processing of an application by the division's staff may be delayed to give the registrant an opportunity to cure technical defects in his application.

(5) If information in an application for registration or for renewal of registration as a telephone soliciting business materially changes or becomes incorrect or incomplete, the applicant shall, within 30 days after the information changes or becomes incorrect or incomplete, submit the correct information on the corresponding page of the registration application with a cover page or letter clarifying that the submission is correcting information to an existing registration.

(a) Material changes to the legal status of the registrant's organization or ownership of the telephone soliciting business may not be submitted as an amendment to an existing registration. An initial application for registration must be completed and submitted for approval by the Division.

(b) The director may suspend or revoke a registration if material changes or corrections to the registration are not submitted as required by this rule.

KEY: telephones, fraud, consumers

Date of Enactment or Last Substantive Amendment: [February 23, 2007]2014

Notice of Continuation: August 9, 2011

Authorizing, and Implemented or Interpreted Law: 13-2-5

**Commerce, Occupational and
Professional Licensing
R156-67
Utah Medical Practice Act Rule**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38106

FILED: 11/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and Physicians Licensing Board are proposing amendments to the rule to implement statute changes made in Subsection 58-67-305(6) which were passed in H.B. 51 during the 2013 General Legislative Session.

SUMMARY OF THE RULE OR CHANGE: In Section R156-67-103, capitalized "Division". In Section R156-67-306, the proposed amendment identifies medical practices and procedures that a medical assistant may not perform.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-67-101 and Subsection 58-1-106(1) (a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. The Division is not aware of any further costs beyond those considered by the Legislature in the passing of H.B. 51 (2013).

♦ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed physicians and surgeons and their use of medical assistants in their practice of medicine. As a result, the proposed amendments do not apply to local governments.

♦ **SMALL BUSINESSES:** The proposed amendments may affect small businesses that are currently using medical assistants to diagnose or establish treatment plans. However, the Division cannot estimate any costs due to varying circumstances. Also any anticipated costs would have been considered by the Legislature in the passing of H.B. 51 (2013).

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments may affect other persons that are currently using medical assistants to diagnose or establish treatment plans. However, the Division cannot estimate any costs due to varying circumstances. Also any anticipated costs would have been considered by the Legislature in the passing of H.B. 51 (2013).

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments may affect licensed physicians/surgeons that are currently using medical assistants to diagnose or establish treatment plans. However, the Division cannot estimate any costs due to varying circumstances. Also any anticipated costs would have been considered by the Legislature in the passing of H.B. 51 (2013).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As explained in the rule analysis, businesses that currently use medical assistants to diagnose or to establish treatment

plans will be required to change their policies and procedures to ensure that these duties are performed by licensed medical professionals. The attendant costs, if any, will vary and cannot be estimated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

COMMERCE
OCCUPATIONAL AND PROFESSIONAL
LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Noel Taxin by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at ntaxin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 12/11/2013 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2014

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

R156-67. Utah Medical Practice Act Rule.

R156-67-103. Authority - Purpose.

This rule is adopted by the [d]Division under the authority of Subsection 58-1-106(1)(a) to enable the [d]Division to administer Title 58, Chapter 67.

R156-67-306. Exemptions from Licensure.

In accordance with Subsection 58-1-307(1), exemptions from licensure as a physician and surgeon include the following:

(1) any physician exempted from licensure, who engages in prescribing, dispensing, or administering a controlled substance outside of a hospital, shall be required to apply for and obtain a Utah Controlled Substance License as a condition precedent to them administering, dispensing or prescribing a controlled substance;

(2) any person engaged in a competent public screening program making measures of physiologic conditions including serum cholesterol, blood sugar and blood pressure, shall be exempt from licensure and shall not be considered to be engaged in the practice of medicine conditioned upon compliance with all of the following:

(a) all instruments or devices used in making measures are approved by the Food and Drug Administration of the U.S. Department of Health, to the extent an approval is required, and the instruments and devices are used in accordance with those approvals;

(b) the facilities and testing protocol meet any standards or personnel training requirements of the Utah Department of Health;

(c) unlicensed personnel shall not interpret results of measures or tests nor shall they make any recommendation with respect to treatment or the purchase of any product;

(d) licensed personnel shall act within the lawful scope of practice of their license classification;

(e) unlicensed personnel shall conform to the referral and follow-up protocol approved by the Utah Department of Health for each measure or test; ~~and~~

(f) information provided to those persons measured or tested for the purpose of permitting them to interpret their own test results shall be only that approved by the Utah Department of Health;

(3) non-licensed public safety individuals not having emergency medical technician (EMT) certification who are designated by appropriate city, county, or state officials as responders may be issued and allowed to carry the Mark I automatic injector antidote kits and may administer the antidote to himself or his designated first response "buddy". Prior to being issued the kits, the designated responders must successfully complete a course on the use of auto-injectors. The kits may be issued to the responder only by his employing agency and procured through the Utah Department of Health; and

(4) in accordance with Section 58-67-305, a medical assistant, while working under the indirect supervision of a licensed physician and surgeon, may not additionally engage in:

(a) diagnosing; or

(b) establishing a treatment plan.

KEY: physicians, licensing

Date of Enactment or Last Substantive Amendment: [~~April 8, 2013~~2014]

Notice of Continuation: March 14, 2011

Authorizing, and Implemented or Interpreted Law: 58-67-101; 58-1-106(1)(a); 58-1-202(1)(a)

Commerce, Occupational and Professional Licensing **R156-68** Utah Osteopathic Medical Practice Act Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38107

FILED: 11/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division and Osteopathic Physicians and Surgeons Licensing Board are proposing amendments to the rule to implement statute changes made in Subsection 58-68-

305(6) which were passed in H.B. 51 during the 2013 General Legislative Session.

SUMMARY OF THE RULE OR CHANGE: In Section R156-68-103, capitalized "Division". In Section R156-68-306, the proposed amendment identifies medical practices and procedures that a medical assistant may not perform.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-68-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Division will incur minimal costs of approximately \$50 to print and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget. The Division is not aware of any further costs beyond those considered by the Legislature in the passing of H.B. 51 (2013).

◆ **LOCAL GOVERNMENTS:** The proposed amendments only apply to licensed osteopathic physicians and surgeons and their use of medical assistants in their practice of osteopathic medicine. As a result, the proposed amendments do not apply to local governments.

◆ **SMALL BUSINESSES:** The proposed amendments may affect small businesses that are currently using medical assistants to diagnose or establish treatment plans. However, the Division cannot estimate any costs due to varying circumstances. Also any anticipated costs would have been considered by the Legislature in the passing of H.B. 51 (2013).

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments may affect other persons that are currently using medical assistants to diagnose or establish treatment plans. However, the Division cannot estimate any costs due to varying circumstances. Also any anticipated costs would have been considered by the Legislature in the passing of H.B. 51 (2013).

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments may affect licensed osteopathic physicians/surgeons that are currently using medical assistants to diagnose or establish treatment plans. However, the Division cannot estimate any costs due to varying circumstances. Also any anticipated costs would have been considered by the Legislature in the passing of H.B. 51 (2013).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: As explained in the rule analysis, businesses that currently use medical assistants to diagnose or to establish treatment plans will be required to change their policies and procedures to ensure that these duties are performed by licensed medical professionals. The attendant costs, if any, will vary and cannot be estimated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

COMMERCE
OCCUPATIONAL AND PROFESSIONAL
LICENSING
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Noel Taxin by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at ntaxin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 12/11/2013 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2014

AUTHORIZED BY: Mark Steinagel, Director

R156. Commerce, Occupational and Professional Licensing.

R156-68. Utah Osteopathic Medical Practice Act Rule.

R156-68-103. Authority - Purpose.

This rule is adopted by the [d]Division under the authority of Subsection 58-1-106(1)(a) to enable the [d]Division to administer Title 58, Chapter 68.

R156-68-306. Exemptions From Licensure.

In accordance with Subsection 58-1-307(1), exemptions from licensure as an osteopathic physician include the following:

(1) any physician exempted from licensure, who engages in prescribing, dispensing, or administering a controlled substance outside of a hospital, shall be required to apply for and obtain a Utah Controlled Substance License as a condition precedent to them administering, dispensing or prescribing a controlled substance;

(2) any person engaged in a competent public screening program making measures of physiologic conditions including serum cholesterol, blood sugar and blood pressure, shall be exempt from licensure and shall not be considered to be engaged in the practice of osteopathic medicine conditioned upon compliance with all of the following:

(a) all instruments or devices used in making measures are approved by the Food and Drug Administration of the U.S. Department of Health, to the extent approval is required, and the instruments and devices are used in accordance with those approvals;

(b) the facilities and testing protocol meet any standards or personnel training requirements of the Utah Department of Health;

(c) unlicensed personnel shall not interpret results of measures or tests nor shall they make any recommendation with respect to treatment or the purchase of any product;

(d) licensed personnel shall act within the lawful scope of practice of their license classification;

(e) unlicensed personnel shall conform to the referral and follow-up protocol approved by the Utah Department of Health for each measure or test; ~~and~~

(f) information provided to those persons measured or tested for the purpose of permitting them to interpret their own test results shall be only that approved by the Utah Department of Health.

(3) non-licensed public officials not having emergency medical technician (EMT) certification who are designated by appropriate county officials as first responders may be issued and allowed to carry the Mark I automatic antidote injector kits and may administer the antidote to himself or his designated first response "buddy". Prior to being issued the kits, the certified first responders would successfully complete the Army/FEMA course on the "Use of Auto-Injectors by Civilian Emergency Medical Personnel". The kits would be issued to the responder only by his employing government agency and procured through the Utah Division of Comprehensive Emergency Management. No other individuals, whether licensed or not, shall prescribe or issue these antidote kits; and

(4) In accordance with Section 58-68-305, a medical assistant, while working under the indirect supervision of a licensed osteopathic physician and surgeon, may not additionally engage in:

(a) diagnosing; or

(b) establishing a treatment plan.

KEY: osteopaths, licensing, osteopathic physician

Date of Enactment or Last Substantive Amendment: [~~April 8, 2013~~2014]

Notice of Continuation: February 7, 2013

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-68-101

Education, Administration
R277-497
School Grading System

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38111

FILED: 11/08/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide a new definition consistent with the requirement of S.B. 271, passed in the 2013 General Legislative Session, to clarify school grading indicators, and to provide definitions and terminology changes to make the rule consistent with other rules.

SUMMARY OF THE RULE OR CHANGE: A new definition is provided; changes to language for school grading indicators are provided; unnecessary language is removed.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53A-1-1113 and Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. The amendments to the rule provide changes to school grading indicators which do not result in a cost or savings.

◆ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. The amendments to the rule provide changes to school grading indicators which do not result in a cost or savings.

◆ SMALL BUSINESSES: There is no anticipated cost or savings to the state budget. This rule and the amendments apply to public education and do not affect businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The amendments to the rule provide changes to school grading indicators which do not result in a cost or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The amendments to the rule provide changes to school grading indicators which do not result in a compliance cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2014

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.
R277-497. School Grading System.
R277-497-1. Definitions.

- A. "Board" means the Utah State Board of Education.
- B. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and, for purposes of this rule, the Utah Schools for the Deaf and the Blind.
- C. "Sufficient student growth" as determined by the Board, means a student growth percentile of 40 or above.

R277-497-2. Authority and Purpose.

- A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-1113 which directs the Board to adopt rules to implement a school grading system, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.
- B. The purpose of this rule is to provide consistent definitions, standards and procedures for LEAs to report school data through a school grading system.

R277-497-3. Board Responsibilities.

- A. Beginning in the 2012-2013 school year, the Board shall implement a school grading system (A,B,C,D,F). The school grading system report provided by the Board shall include the following [elements]indicators:
 - ~~_____ (1) A report of school academic performance in language arts, writing, math, and science expressed in a grading system (A,B,C,D,F), for academic achievement including:~~
] (a) [1] student[~~assessed~~] proficiency on the Board-approved grade/subject level assessments in language arts, math and science[~~, and~~];
 ([b]2) [student assessed]sufficient student growth[-]; and
~~_____ (2) Academic achievement shall be based on:~~
~~_____ (a) student performance on the Board-approved grade/subject level assessments, and~~
] ([b]3) [college and career readiness indicators, such as]for high schools:
~~_____ (a) graduation rates[-]; and~~
~~_____ (b) beginning in the 2013-14 school year, ACT scores.~~
- B. [The Board shall use generally accepted standards of validity and reliability to determine the appropriate requirements for letter grades that combine to make up a school report through the school grading system.]School letter grades shall be determined as follows:
 - ~~_____ (1) 80 - 100 percent A;~~
 - ~~_____ (2) 70 - 79 percent B;~~
 - ~~_____ (3) 60 - 69 percent C;~~
 - ~~_____ (4) 50 - 59 percent D; and~~
 - ~~_____ (5) below 50 percent F.~~
- C. Beginning with the 2012-2013 school year data, the Board shall:
 - (1) implement a school grading system that makes data and reports available to parents, educators and the public. The report shall include the elements described in R277-497-3A.
 - (2) School data and reports shall be available to parents, educators and the public through a public website that facilitates the comparison of public schools based on the school grading system and demographics.

- D. The Board-implemented school grading system shall include test scores for students with disabilities consistent with the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1401(3).
~~_____ E. After the 2012-2013 school year, the Board shall:
 _____ (1) seek and review evaluation information on the calculations and methodologies used to determine academic achievement reports and consider modifications to refine and improve the process and availability of the information.
]~~

R277-497-4. LEA Responsibilities.

- A. LEAs shall provide accurate and timely data as required under R277-484 to allow for the development of the school reports.
- B. LEAs shall use the school reports as a communication tool to inform parents and the community about school performance.
- C. LEAs shall ensure that the school reports are available for all parents.

R277-497-5. School Responsibilities.

- A. Schools shall provide data for the school reports as provided in R277-484.
- B. Schools shall cooperate with the Board and LEAs to ensure that the school reports are available for all parents.

KEY: school reports, grading system
Date of Enactment or Last Substantive Amendment: [July 9, 2012]2014
Notice of Continuation: November 8, 2013
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1-1113; 53A-1-401(3)

Education, Administration
R277-525
Special Educator Stipends

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 38114
 FILED: 11/08/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to reflect that some of the previously required local education agency (LEA) reported data are collected through the Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS). A separate LEA submitted report will no longer be required; specific LEA reporting provisions are no longer required; new definitions are added; and changes to terminology are provided throughout the rule for consistency with other rules.

SUMMARY OF THE RULE OR CHANGE: New definitions are provided and specific LEA reporting requirements have been changed or eliminated.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There is no anticipated cost or savings to the state budget. Reporting requirements are simplified which do not result in a financial impact.
- ◆ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local government. Reporting requirements are simplified which do not result in a financial impact.
- ◆ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses. This rule and the amendments apply to public education and do not affect businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. Reporting requirements are simplified which do not result in a financial impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Reporting requirements are simplified and there are no compliance requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2014

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-525. Special Educator Stipends.

R277-525-1. Definitions.

A. "After the school year" means two weeks after the final day of the required contract period, as determined by the employer. For year-round schools, "after the school year" means off-track periods, but not vacation periods.

B. "Before the school year" means two weeks before the first day of the required contract period, as determined by the employer.

C. "Board" means the Utah State Board of Education.

D. "Comprehensive Administration of Credentials for Teachers in Utah Schools (CACTUS)" means the electronic file maintained on all licensed Utah educators. The file includes information such as:

(1) personal directory information;

(2) educational background;

(3) endorsements;

(4) employment history; and

(5) a record of disciplinary action taken against the educator.

[D]E. "Duties related to the IEP process" means;

(1) duties/responsibilities provided in 53A-17a-156(4);

(2) preparing paperwork related to the implementation of IDEA; and

(3) other duties or responsibilities related to the IEP process, as determined by the special educator.

Duties related to the IEP process do not include:

(1) professional development;

(2) district level planning; and

(3) direct student instruction.

[E]E. "Federal law regulating students with disabilities" means the Individual with Disabilities Education Act (IDEA), Title 1, Part A, Section 602.

G. "LEA" means a local education agency, including local school boards/public school districts and charter schools.

[F]H. "Special educator," for purposes of this rule, means:

(1) a licensed special education teacher as defined under 53A-17a-158(c); or

(2) a licensed speech-language pathologist as defined under Section 53A-17a-158(c).

[G]I. "Special education teacher" means an individual who has a Utah educator license with a special education area of concentration and whose primary assignment is the instruction of students with disabilities who are eligible for special education services.

[H]J. "Speech-language pathologist" means an individual who has a Utah educator license with a speech-language pathologist area of concentration or a speech-language pathologist license and whose primary assignment is the instruction of students with disabilities who are eligible for special education services.

[F]K. "USOE" means the Utah State Office of Education.

[F]L. "Work day for special educator" means the special educator's contract day as determined by the employer. Stipends shall only be paid for actual days worked. A teacher shall not be paid if days/hours are not actually worked. Days are not transferable among teachers.

R277-525-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities, and Section 53A-17a-158 which requires the Board to distribute money

appropriated for stipends for special educators for additional days of work.

B. The purpose of this rule is provide standards and procedures for distributing money appropriated for stipends for special educators for additional days of work:

(1) in recognition of the added duties and responsibilities assumed by special educators to comply with federal law regulating the education of students with disabilities; and

(2) the need to attract and retain qualified special educators.

R277-525-3. [School — District/Charter — School]LEA Responsibilities.

A. [School districts and charter schools]LEAs shall contract with individual special educators, defined under R277-525-1F, and request in writing from the special educators:

(1) the number of days (not to exceed 10 or the number of days established by the Board) that the special educator commits to work consistent with R277-525-1G and H; and

(2) the time period (before the school year begins or after the school year ends) that the special educator commits to working the additional days.

B. Special educators hired by [school districts/charter schools]LEAs after October 15 shall receive funding for extra days to the extent of funds available.

C. [School districts/charter schools]LEAs shall [submit an invoice to the USOE twice within a fiscal year (July 1 to June 30) for reimbursement for additional contract days]maintain a record of the number of days worked by special educators on CACTUS as follows:

(1) no later than October 1 for special educators who worked before the school year began; and

(2) no later than June 30 for special educators who worked after the school year ended.

D. [School districts/charter schools]LEAs shall submit a final report to the USOE no later than June 30 annually that provides:

(1) the number of contract days worked by designated special educators; and

(2) [data and information compiled about hours, duties and responsibilities completed by special educators during additional days on a tracking and accounting form provided by the USOE or using another form acceptable to the USOE; and

(3) other assessment or evaluation information requested from the USOE.

R277-525-4. Board/USOE Responsibilities.

A. The Board shall annually review this program and determine, based upon the annual appropriation, the number of special education days that shall be funded.

B. To simplify accounting and evaluation requirements for [school districts and charter schools]LEAs, the USOE shall:

(1) provide model tracking and accounting materials to [school districts and charter schools]LEAs[before June 1, 2008.];

(2) provide a checklist of appropriate duties or tasks for special educators consistent with R277-525-1[~~D~~]E[-];

(3) distribute funds to participating [school districts and charter schools]LEAs for eligible special educators on a semiannual basis[-]; and

(4) request and collect data [regarding use of days for appropriate accountability and evaluation]based on the number of work days reported on CACTUS by October 1 and June 30 or both, as requested by the Board.

KEY: special educators, stipends

Date of Enactment or Last Substantive Amendment: [July 8, 2008]2014

Notice of Continuation: June 10, 2013

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401(3); 53A-17a-158

Education, Administration
R277-704
Financial and Economic Literacy:
Integration into Core Curriculum and
Financial and Economic Literacy
Student Passports

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38113

FILED: 11/08/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to change a definition to make it consistent with current terminology.

SUMMARY OF THE RULE OR CHANGE: The definition "SEOP" is changed to a new definition "SEOP/plan for college and career readiness." Language is changed throughout the rule to reflect the new definition.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. A definition is changed to reflect current terminology which does not result in a financial impact.

◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. A definition is changed to reflect current terminology which does not result in a financial impact.

◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule and the amendments to the rule apply to public education and do not affect businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. A

definition is changed to reflect current terminology which does not result in a financial impact.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. A definition is changed to reflect current terminology in which there are no compliance requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2014

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.
R277-704. Financial and Economic Literacy: Integration into Core Curriculum and Financial and Economic Literacy Student Passports.

- R277-704-1. Definitions.**
- A. "Board" means the Utah State Board of Education.
 - B. "Financial and economic literacy project" means a program or series of activities developed locally to encourage the understanding of financial and economic literacy among students and their families and to assist public school educators in making financial and economic literacy an integrated and permanent part of the public school curriculum.
 - C. "Financial and economic literacy student passport" means a collection of approved activities, assessments, or achievements completed during a given time period which indicate advancement in financial and economic understanding.
 - D. "Professional development" for public school educators means the act of engaging in professional learning in order to improve student learning.
 - ~~E. "SEOP" means student education occupation plan. An SEOP shall include:~~
 - ~~(1) a student's education occupation plans (grades 7-12) including job placement when appropriate;~~
 - ~~(2) all Board and local board graduation requirements;~~

- ~~(3) evidence of parent, student, and school representative involvement annually;~~
- ~~(4) attainment of approved workplace skill competencies; and~~
- ~~(5) identification of post-secondary goals and approved sequence of courses.~~
- E. "SEOP/plan for college and career readiness" means a plan for students in grades 7-12 that includes:
 - (1) all Board and LEA board graduation requirements;
 - (2) the individual student's specific course plan that will meet graduation requirements and provides a supportive sequence of courses consistent with identified post-secondary training goals;
 - (3) evidence of parent, student, and school representative involvement annually; and
 - (4) attainment of approved workplace skill competencies.
- F. "USOE" means the Utah State Office of Education.

- R277-704-2. Authority and Purpose.**
- A. This rule is authorized under Utah Constitution Article X, Section 3 which gives general control and supervision of the public school system to the Board, by Section 53A-13-110 which directs the Board to work with financial and economic experts and private and non-profit entities to develop and integrate financial and economic literacy and skills into the public school curriculum at all appropriate levels and to develop a financial and economic literacy student passport which is optional for students and tracks student mastery of financial and economic literacy concepts, and by Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities.
 - B. The purpose of this rule is:
 - (1) to provide funds appropriated by the Legislature to develop and integrate financial and economic literacy concepts effectively into the core curriculum in various programs and at various grade levels;
 - (2) to begin the development of a financial and economic literacy student passport;
 - (3) to provide for educator professional development using business and community expertise, allowing for maximum creativity and flexibility;
 - (4) to provide curriculum resources and assessments for financial and economic literacy;
 - (5) to provide passport criteria and tracking capabilities for the financial and economic literacy passport for students grades K-12; and
 - (6) to provide simple and consistent messaging to students that becomes part of the core curriculum that reinforces the importance of financial and economic literacy and helps students and their parents to locate and use school and community resources to improve financial and economic literacy among students and families.

- R277-704-3. Financial and Economic Literacy Student Passport.**
- A. The Board and the USOE shall develop and promote a financial and economic literacy student passport model, which would include tracking of student progress toward a passport.
 - B. Early efforts will focus on students in grades nine through 12.

C. Development efforts will include parent and community participation.

D. A major goal of the development and promotion of a financial and economic literacy student passport will be to inform and educate students and their parents throughout the public school experience of the importance of financial and economic literacy and its applicability to all areas of the public school curriculum.

E. Public schools shall provide parents/guardians and students with the following:

(1) during kindergarten enrollment, a financial and economic literacy passport and information about post-secondary education savings options; and

(2) information and encouragement toward the financial and economic literacy student passport opportunity upon development as part of the SEOP/plan for college and career readiness process.

R277-704-4. Financial and Economic Literacy Professional Development Opportunities.

A. The USOE shall provide professional development [on]for all areas of financial and economic literacy utilizing the expertise of community and business groups.

B. Professional development activities shall inform public school educators about financial and economic literacy, encourage greater understanding of personal financial and economic responsibility, provide information and resources for teaching about financial and economic literacy without promoting specific products or businesses, and work with the USOE to develop messaging or advertising to promote financial and economic literacy.

KEY: financial, economics, literacy

Date of Enactment or Last Substantive Amendment: [November 9, 2009]2014

Notice of Continuation: November 8, 2013

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-13-110; 53A-1-401(3)

**Education, Administration
R277-709**

**Education Programs Serving Youth in
Custody**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 38116

FILED: 11/08/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is amended to provide alignment and consistency with existing statute, Section 53A-1-403, and Rule R277-484.

SUMMARY OF THE RULE OR CHANGE: "Student Educational Occupational Plan (SEOP)" is removed and

replaced with "SEOP/plan for college and career readiness"; agency data sharing redundancies are eliminated; any reference to the youth in custody database (YICopia) is eliminated in compliance with Rule R277-484; and the Coordinating Council membership is changed to make it consistent with state law.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53A-1-401(3) and Subsection 53A-1-403(2)(b)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The changes to the rule provide updated language to remove redundancies and make the rule consistent with Rule R277-484 for data collection purposes which do not result in a financial cost or savings.

◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local government. The changes to the rule provide updated language to remove redundancies and make the rule consistent with Rule R277-484 for data collection purposes which do not result in a financial cost or savings.

◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule and the amendments apply to public education and do not affect businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The changes to the rule provide updated language to remove redundancies and make the rule consistent with Rule R277-484 for data collection purposes which do not result in a financial cost or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The changes to the rule provide updated language to remove redundancies and make the rule consistent with Rule R277-484 for data collection purposes which do not result in compliance cost requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed this rule and I see no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2014

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

R277. Education, Administration.

R277-709. Education Programs Serving Youth in Custody.

R277-709-1. Definitions.

A. "Accreditation" means the formal process for evaluation and approval under the Standards for the Northwest Accreditation Commission supported by AdvancED.

[A]B. "Board" means the Utah State Board of Education.

[B]C. "Custody" means the status of being legally subject to the control of another person or a public agency.

[C]D. "LEA" means local education agency, including local school boards/ public school districts and charter schools.

[D]E. "Student Education/Occupation Plan (SEOP)" means a plan developed by a student and the student's parent or guardian, in consultation with school counselors, teachers and administrators that:

- (1) is initiated at the beginning of grade 7;
- (2) identifies a student's skills and objectives;
- (3) maps out a strategy to guide a student's course selection; and
- (4) links a student to postsecondary options, including higher education and careers.

[E]F. "SEOP/plan for college and career readiness" means a plan for students in grades 7-12 that includes:

- (1) all Board and LEA board graduation requirements;
- (2) the individual student's specific course plan that will meet graduation requirements and provides a supportive sequence of courses consistent with identified post-secondary training goals;
- (3) evidence of parent, student, and school representative involvement annually; and
- (4) attainment of approved workplace skill competencies.

[F]G. "USOE" means the Utah State Office of Education.

[G]H. "Youth in Custody" means a person defined under Sections 53A-1-403(2)(a) and 62A-15-609 who does not have a high school diploma or a GED certificate.

R277-709-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53A-1-403(2)(b) which requires the Board to adopt rules for the distribution of funds for the education of youth in custody, and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

B. The purpose of this rule is to specify operation standards, procedures, and distribution of funds for youth in custody programs.

R277-709-3. Student Evaluation, Education Plans, and LEA Programs.

A. Each student meeting the eligibility definition of youth in custody shall have a written SEOP/plan for college and career readiness defining the student's academic achievement, and shall specify known in-school and extra-school factors which may affect the student's school performance.

B. Annually, the student's SEOP/plan for college and career readiness shall be reviewed by the student, school staff and parent/guardian and maintained in the student's file.

[C]D. For purposes of agency data sharing, a data matching/agency waiver release form shall be signed by the qualified student's guardian and maintained in the student's file.

[D]E. The program receiving the student is responsible for obtaining the student's evaluation records, and, in cases where the records are not current, for conducting the evaluation, which may include a special education eligibility evaluation, as quickly as possible so that unnecessary delay in developing a student's education program is avoided.

[E]F. The LEA in which the program resides has the responsibility to conduct Individuals with Disabilities Education Act (IDEA) child find activities within the program, consistent with Utah State Board of Education Special Education Rule II.A.

[F]G. Based upon the results of the student evaluation, an appropriate [student education] SEOP/plan for college and career readiness and, as needed, a special education Individualized Education Program (IEP), shall be prepared for each eligible youth in custody. The plan shall be reviewed and updated at least once each year or immediately following transfer of a student from one program to another, whichever is sooner. The plan is developed in cooperation with appropriate representatives of other service agencies working with a student. The plan shall specify the responsibilities of each of the agencies towards the student and is signed by each agency's representative.

[G]H. All provisions of the IDEA and state special education rules apply to youth in custody programs. Youth in custody programs shall be included in the USOE general supervision monitoring annually.

[H]I. LEA Youth in Custody Programs

(1) The LEA shall provide an education program for the student which conforms as closely as possible to the student's education plan. Educational services shall be provided in the least restrictive environment appropriate for the student's behavior and educational performance.

(2) Youth in custody who do not require educational services or supervision beyond students not in custody shall be considered part of the district's regular enrollment and provided education services.

(3) Youth in custody shall not be assigned to, or remain in, restrictive or non-mainstream programs simply because of their custodial status, past behavior that does not put others at risk, or the inappropriate behavior of other students.

(4) Education programs to which youth in custody are assigned shall meet the standards which are adopted by the Board for that type program. Compliance shall be monitored by the Utah State Office of Education in periodic review visits.

(5) Credit earned in youth in custody programs that are accredited shall be accepted at face value in Utah's public schools consistent with R277-410-9, Transfer or Acceptance of Credit.

(6) Educational services shall be sufficiently coordinated with non-custody programs to enable youth in custody to continue their education with minimal disruption following discharge from custody.

[F]H. Youth in custody shall be admitted to classes within five school days following arrival at a new residential placement. If evaluation and SEOP/plan for college and career readiness or IEP development are delayed beyond that period, the student shall be enrolled temporarily based upon the best information available. The temporary schedule may be modified to meet the student's needs after the evaluation and planning process has been completed.

[F]I. Following a student's release from custody or transfer to a new program, the sending program shall bring all available school records up to date and forward them to the receiving program consistent with Section 53A-11-504.

~~[K. Student demographic information, copies of birth certificates, standardized test records, including special education IEP documents, shall be scanned into the youth in custody database (YICopia) as records become available.~~

[E]J. All grades, attendance records and special education SCRAM records shall be maintained in the LEA's SIS system in compliance with R277-484, Data Standards.

R277-709-4. Program Fiscal and Accountability Procedures.

A. State funds appropriated for youth in custody, including the Utah State Hospital, are allocated in accordance with Section 53A-1-403 and Section 62A-15-609.

B. Funds appropriated for youth in custody programs shall be subject to Board accounting, auditing, and budgeting rules and policies.

C. Board Contracts for Youth in Custody Services

(1) the Board shall, through an annually submitted and approved state application/plan, contract with LEAs to provide educational services for youth in custody. The respective responsibilities of the Board, LEAs, and other local service providers for education shall be established in the contract. An LEA may subcontract with local non-district educational service providers for the provision of educational services;

(2) the Board may contract through an RFP process with an appropriate entity only if the Board determines that the LEA where the facility is located is unable or unwilling to provide adequate education services.

(3) Youth in custody students receiving education services by or through an LEA are students of that LEA.

D. State funds appropriated for youth in custody are allocated on the basis of an annually submitted and approved application made by the LEA where a youth in custody program resides.

E. The share of funds distributed to an LEA is based upon criteria which include the number of youth in custody served ~~in the district~~ by the LEA, the type of program required for the youth, the setting for providing services, and the length of the program.

F. Funds approved for youth in custody projects shall be expended solely for the purposes described in the respective funding application.

G. The USOE may retain no more than five percent of the total youth in custody annual legislative appropriation for administration, oversight, monitoring, and evaluation of youth in custody programs and their compliance with law and this rule.

H. Up to three percent of the five percent of administrative funds allowed under R277-709-4[F]G may be withheld by the USOE and directed to students attending youth in custody programs for short periods of time or to new or beginning youth in custody programs or initiatives benefitting youth in custody students.

I. Funds, state (flow through or state contract) or federal (reimbursement) or both, may be withheld or terminated for noncompliance with state policy and procedures and associated reporting timelines as defined by the Board.

J. The Board or its designee shall develop uniform forms, deadlines, reporting and accounting procedures and guidelines to govern the youth in custody school-based programs and Utah State Hospital funded programs.

R277-709-5. Youth in Custody Programs and Students with Disabilities.

A. The youth in custody program is separate from and not conducted under the state's education program for students with disabilities. Custodial status alone does not qualify a youth in custody student as a student with a disability under laws regulating education for students with disabilities.

B. Youth in custody students may be eligible for special education funding and services based upon special education rules and regulations.

C. Youth in custody students qualifying for special education services shall receive educational instruction as defined in R277-750, Education Programs for Students with Disabilities.

D. Special education procedural safeguards shall apply to all IDEA eligible youth in custody students regardless of instructional location.

E. Special education programs provided through youth in custody programs shall be monitored on an annual basis as defined by special education rules and policies.

R277-709-6. Youth in Custody Program Staffing and Monitoring.

A. Education staff assigned to youth in custody shall be qualified and appropriate for their assignments as defined in R277-503, Licensing Routes.

B. Youth in custody programs shall maintain accreditation as part of the LEA where the programs are located consistent with R277-410, Accreditation of Schools.

C. The USOE shall evaluate youth in custody programs through regular site monitoring visits and monthly desk monitoring, as directed by the USOE.

D. Monitored programs shall prepare and submit to the USOE a written corrective action plan for each monitoring finding as requested by the USOE.

E. A youth in custody program's failure to resolve audit/monitoring findings as soon as possible, and, in no case, later than one calendar year from date of notice, may result in the termination of state funding as provided in R277-114, Corrective Action and Withdrawal or Reduction of Program Funds.

F. The USOE may review LEA or State Hospital records and practices for compliance with the law and this rule.

R277-709-7. Utah State Hospital.

A. Funding for the education programs at the Utah State Hospital shall be contingent upon a legislative appropriation.

B. State education contract funds appropriated for State Hospital youth in custody are allocated to the LEA on a reimbursement basis. The State Hospital shall annually submit requests for reimbursement.

C. Funding shall be distributed to the LEA on a reimbursement basis subject to required documentation that supports expenditures.

D. Funds may be withheld or terminated for noncompliance with state and federal policies and procedures and associated reporting requirements and timelines as defined by the USOE.

E. All students qualifying for special education services shall be served by the special education standards defined in R277-750.

F. Staff providing special education services shall comply with all state special education rules, policies and procedures, including SCRAM reporting, child find, assessment and financial accountability, as defined by the Board.

R277-709-8. Youth in Custody/LEA Fiscal Procedures.

A. Ten percent or \$50,000, whichever is less, of state youth in custody funds or educational contract funds (State Hospital) not expended in the current fiscal year may be carried over by eligible LEAs and spent in the next fiscal year with written approval of the USOE.

B. A request to carry over funds shall be submitted for approval by August 1. Approved carry over amounts shall be detailed in a revised budget submitted to the USOE no later than October 1 in the year requested.

C. Excess funds may be considered in determining the LEA's allocation for the next fiscal year.

D. Annually, fund balances in excess of ten percent or \$50,000 shall be recaptured by the USOE no later than February 1 and reallocated to the youth in custody programs based on the criteria and procedures provided by the USOE.

R277-709-9. Program, Curriculum, Outcomes and Student Mastery.

A. Youth in custody programs shall offer courses consistent with the Utah Core standards under R277-700.

B. The Utah core standards and teaching strategies may be modified or adjusted to meet the individual needs of youth in custody students.

C. Course content mastery shall be stressed rather than completion of predetermined seat time in a classroom.

D. Written course descriptions for GED Test preparation shall be made available for youth in custody students who consider pursuing GED Tests as an alternative to traditional Carnegie diploma courses.

R277-709-10. Confidentiality.

A. Transcripts and diplomas prepared for youth in custody shall be issued in the name of an existing LEA which also

serves non-custodial youth and shall not bear references to custodial status.

B. School records which refer to custodial status, juvenile court records, and related matters shall be kept separate from permanent school records, but are nonetheless student records if retained by the LEA.

C. Members of the interagency team which design and oversee student education plans shall have access, through team member representatives of the participating agencies, to relevant records of the various agencies. The records and information obtained from the records remain the property of the supplying agency and shall not be transferred or shared with other persons or agencies without the permission of the supplying agency, the student's legal guardian, or the eligible student under 20 U.S.C. 1232g(d).

D. All information maintained in permanent form on a student from whatever source derived or received, is a student record under the Family Educational Rights and Privacy Act, ~~[34 C.F.R., Part 99]~~ 20 U.S.C. 1232g.

E. All confidentiality provisions that pertain to eligible students with disabilities under IDEA apply.

R277-709-11. Coordinating Council.

A. The Department of Human Services and the Board shall appoint a coordinating council to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of Juvenile Justice Services and the Division of Child and Family Services. The Council shall operate under the guidelines developed and approved by the Department of Human Services and the Board.

B. Council membership shall include a representative of the following:

- (1) Department of Human Services;
- ~~[(2) Division of Substance Abuse and Mental Health;~~
- ~~] (3) Division of Juvenile Justice Services;~~
- ~~(4) Division of Child and Family Services;~~
- ~~(5) Utah State Office of Education;~~
- ~~(6) Administrative Office of the Courts; and~~
- ~~[(7) Utah State Hospital administration;~~
- ~~(8) LEAs;~~
- ~~(9) juvenile courts;~~
- ~~(10) community-based private providers;~~
- ~~(11) foster parents;~~
- ~~(12) a Native American tribe; and~~
- ~~(13) Guardian ad Litem's Office].~~

R277-709-12. Advisory Councils.

A. Each LEA serving youth in custody shall establish a local interagency advisory council which shall be responsible for advising member agencies concerning coordination of youth in custody programs. Members of the council shall include, if applicable to the LEA, the following:

- (1) a representative of the Division of Child and Family Services;
- (2) a representative of the Division of Juvenile Justice Services;
- (3) directors of agencies located in an LEA such as detention centers, secure lockup facilities, observation and assessment units, and the Utah State Hospital;

- (4) a representative of community-based alternative programs for custodial juveniles; and
- (5) a representative of the LEA.
- B. The council shall adopt by-laws for its operation.
- C. Local interagency advisory councils shall meet at least quarterly.

KEY: students, education, juvenile courts
Date of Enactment or Last Substantive Amendment: [~~October 9, 2012~~2014
Notice of Continuation: March 12, 2013
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-403(1); 53A-1-401(3)

Environmental Quality, Air Quality
R307-210-2
Oil and Gas Sector: New Source
Performance Standards

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 38104
 FILED: 11/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On 08/16/2012, the EPA promulgated new source performance standards (NSPS) for the oil and gas sector. On 09/23/2013, the EPA revised the oil and gas sector regulations to extend compliance dates for some of the requirements. In order for these new standards to be enforceable at the state level, they need to be incorporated into the Division of Air Quality (DAQ) rules.

SUMMARY OF THE RULE OR CHANGE: The "Oil and Gas Sector: New Source Performance Standards" in 40 CFR 60.17, 40 CFR Part 60 Subpart KKK, 40 CFR Part 60 Subpart LLL, and 40 CFR Part 60 Subpart OOOO, promulgated by the EPA on 08/16/2012 in 77 FR 49490 and revised on 09/23/2013 in 78 FR 58435 are hereby incorporated by reference.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-108 and Subsection 19-2-104(3) (q)

MATERIALS INCORPORATED BY REFERENCES:
 ♦ Adds 78 FR 58435, published by National Archives and Records Administration's Office of the Federal Register, 09/23/2013

ANTICIPATED COST OR SAVINGS TO:
 ♦ **THE STATE BUDGET:** There may be an additional cost to DAQ to enforce the standards for sources that are currently

inspected; however, any costs should be minimal and should not result in any additional costs to the state budget. Because new sources are subject to these standards, there may be additional costs to enforce the standards in the future, but the potential increase is currently unknown, especially for smaller sources that are not permitted by DAQ.

♦ **LOCAL GOVERNMENTS:** There are no new requirements for local government; therefore, there are no anticipated costs or savings.

♦ **SMALL BUSINESSES:** These provisions are already in place and federally enforceable. Any small business to which this rule might apply already should be complying with this rule; therefore, there are no anticipated costs or savings.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These provisions are already in place and federally enforceable. Any person other than small businesses, businesses, or local government entities to which this rule might apply already should be complying with this rule; therefore, there are no anticipated costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because the provisions of this rule are already federally enforceable, affected persons should already be in compliance with it. There are no additional compliance costs associated with incorporating the new standards into the DAQ rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Because the provisions of this rule are already federally enforceable, businesses should already be in compliance with it. DAQ anticipates no fiscal impact associated with incorporating the new standards into the DAQ rules.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 AIR QUALITY
 FOURTH FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 02/06/2014

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.**R307-210. Stationary Sources.****R307-210-2. Oil and Gas Sector: New Source Performance Standards.**

The "Oil and Gas Sector: New Source Performance Standards" in 40 CFR 60.17, 40 CFR Part 60 Subpart KKK, 40 CFR Part 60 Subpart LLL, and 40 CFR Part 60 Subpart OOOO promulgated by the Environmental Protection Agency on August 16, 2012 in 77 FR 49490 and revised on September 23, 2013 in 78 FR 58435 are hereby incorporated by reference.

KEY: air pollution, stationary sources, new source review

Date of Enactment or Last Substantive Amendment: [~~March 7, 2012~~2014

Notice of Continuation: April 6, 2011

Authorizing, and Implemented or Interpreted Law: 19-2-104(3)(q); 19-2-108

Environmental Quality, Air Quality
R307-214-3
 Oil and Gas Sector: National Emission
 Standards for Hazardous Air Pollutants

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38105

FILED: 11/07/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On 08/16/2012, the EPA promulgated national emission standards for hazardous air pollutants (NESHAP) for the oil and gas sector. In order for these new standards to be enforceable at the state level, they need to be incorporated into the Division of Air Quality (DAQ) rules.

SUMMARY OF THE RULE OR CHANGE: The "Oil and Gas Sector: National Emission Standards for Hazardous Air Pollutants" in 40 CFR 63.14, 40 CFR Part 63 Subpart HH, and 40 CFR Part 63 Subpart HHH promulgated by the EPA on 08/16/2012 in 77 FR 49490 are incorporated by reference into the the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds 77 FR 49490, published by National Archives and Records Administration's Office of the Federal Register, 08/16/2012

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There may be an additional cost to DAQ to enforce the standards; however, any costs should be minimal and should not result in any additional costs to the state budget.

◆ **LOCAL GOVERNMENTS:** There are no new requirements for local government; therefore, there are no anticipated costs or savings.

◆ **SMALL BUSINESSES:** These provisions are already in place and federally enforceable. Any small business to which this rule might apply already should be complying with this rule; therefore, there are no anticipated costs or savings.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These provisions are already in place and federally enforceable. Any person other than small businesses, businesses, or local government entities to which this rule might apply already should be complying with this rule; therefore, there are no anticipated costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS:

Because the provisions of this rule are already federally enforceable, affected persons should already be in compliance with it. There are no additional compliance costs associated with incorporating the new standards into the DAQ rules.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:

Because the provisions of this rule are already federally enforceable, businesses should already be in compliance with it. DAQ anticipates no fiscal impact associated with incorporating the new standards into the DAQ rules.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY

AIR QUALITY

FOURTH FLOOR

195 N 1950 W

SALT LAKE CITY, UT 84116-3085

or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 02/06/2014

AUTHORIZED BY: Bryce Bird, Director

**R307. Environmental Quality, Air Quality.
R307-214. National Emission Standards for Hazardous Air Pollutants.**

R307-214-3. Oil and Gas Sector: National Emission Standards for Hazardous Air Pollutants.

Revisions to the "Oil and Gas Sector: National Emission Standards for Hazardous Air Pollutants" in 40 CFR 63.14, 40 CFR Part 63 Subpart HH, and 40 CFR Part 63 Subpart HHH promulgated by the Environmental Protection Agency on August 16, 2012 in 77 FR 49490 are hereby incorporated by reference.

**KEY: air pollution, hazardous air pollutant, MACT, NESHAP
Date of Enactment or Last Substantive Amendment: [September 12, 2013]2014**

Notice of Continuation: November 8, 2012

**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)
(a)**

**Environmental Quality, Radiation
Control
R313-22-34
Issuance of Specific Licenses**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38145

FILED: 11/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division of Radiation Control received a petition for Agency action that requested renewal intervals for specific radioactive materials licenses (specific licenses) be increased from a five-year renewal interval to a ten-year renewal interval for a certain subset of specific licenses. During a review of the request for Agency action, the Utah Radiation Control Board (Board) determined that the proposed change to the renewal interval should apply to all persons possessing a specific license. Therefore, this rule is being modified to allow a ten-year interval between renewals.

SUMMARY OF THE RULE OR CHANGE: The proposed change to Section R313-22-34 would change the renewal interval for specific licenses from five years to ten years; however, new specific licenses would still be required to be renewed at a five-year interval to establish the new licensees performance with regulatory compliance. In addition, the proposed change would allow the Director flexibility to shorten the renewal cycle less than ten years based on poor performance or regulatory compliance issues. Some reasons for a shorter renewal interval include new company management, new technologies, poor regulatory performance, or other situations that would warrant increased license reviews by the Agency. In addition, this proposed

change is consistent with the Nuclear Regulatory Commissions specific license renewal cycles.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-3-104 and Section 19-3-108

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** Presently over a period of ten years, a specific licensee pays two new/renewal fees and eight annual fees. The new/renewal fees are slightly lower than the annual fees for all categories of specific licenses. Under the proposed change, specific licensees would pay one new/renewal fee and nine annual fees. The difference between the new/renewal fee and the annual fee ranges from \$80 to \$890 for the specific licenses presently issued in Utah. The proposed rule should result in an increase of approximate \$28,500 in the state budget over the ten-year interval.

♦ **LOCAL GOVERNMENTS:** The agency acknowledges some cities and county governments in Utah possess a specific license. For each specific license a county or city would pay an extra \$80 over the ten-year interval. These costs may be offset with savings from only preparing and submitting one license renewal application in the ten-year interval as opposed to the two renewal applications for each specific license now required.

♦ **SMALL BUSINESSES:** There are numerous small business that have specific licenses. These business will be impacted during that one year by the difference in the annual fee versus the renewal fee. The costs to the small businesses would range from \$80 to \$890 over the ten-year period based on the type of each specific license possessed by the small businesses. Again, the costs for the majority of the small businesses may be offset with savings from only preparing and submitting one license renewal application in the ten-year interval as opposed to the two renewal applications for each specific license now required.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The costs to all persons issued a specific license to possess and use certain radioactive materials range from \$80 to \$890 over the ten-year period based on the type of each specific license possessed by the person. Corporations that have been issued a specific license from the agency will be impacted by not having to prepare a license renewal application every fifth year and by paying the difference between the annual fee versus the renewal fee.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no expected changes to compliance costs associated with this rulemaking action. Inspection intervals will not change, only license renewal intervals will be modified.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Most specific licensees impacted by the proposed rule find the preparation of license renewal applications time consuming and costly for some, and would prefer the renewal

interval to be extended to ten years. In general, specific licensees are supportive of modifying the renewal interval to ten years.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY
RADIATION CONTROL
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Gwyn Galloway by phone at 801-536-4258, by FAX at 801-533-4097, or by Internet E-mail at ggalloway@utah.gov
♦ John Hultquist by phone at 801-536-4623, by FAX at 801-536-4250, or by Internet E-mail at jhultquist@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2014

AUTHORIZED BY: Rusty Lundberg, Director

R313. Environmental Quality, Radiation Control.

R313-22. Specific Licenses.

R313-22-34. Issuance of Specific Licenses.

(1) Upon a determination that an application meets the requirements of the Act and the rules of the Board, the Director will issue a specific license authorizing the proposed activity in a form and containing conditions and limitations as the Director deems appropriate or necessary.

(a) Specific licenses for a new license application shall have an expiration date five years from the end of the month in which it is issued.

(b) Specific licenses for a renewed license shall expire ten years after the expiration date of the previous version of the license.

(c) Notwithstanding R313-22-34(1)(b), if during the review of the license renewal application, the Director determines issues that need to be reassessed sooner than the ten year renewal interval, the Director may shorten the renewal interval on a case by case basis. Examples of issues that may result in a shortened renewal interval includes new technologies, new company management, poor regulatory compliance, or other situations that would warrant increased attention.

(2) The Director may incorporate in licenses at the time of issuance, additional requirements and conditions with respect to the licensee's receipt, possession, use and transfer of radioactive material subject to Rule R313-22 as ~~he~~the Director deems appropriate or necessary in order to:

(a) minimize danger to public health and safety or the environment;

(b) require reports and the keeping of records, and to provide for inspections of activities under the license as may be appropriate or necessary; and

(c) prevent loss or theft of material subject to Rule R313-22.

KEY: specific licenses, decommissioning, broad scope, radioactive materials

Date of Enactment or Last Substantive Amendment: ~~March 19, 2013~~2014

Notice of Continuation: September 23, 2011

Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

Environmental Quality, Radiation Control **R313-38-3** Clarifications or Exceptions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38147

FILED: 11/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule specifies the regulatory requirements for radiation sources used in well logging operations.

SUMMARY OF THE RULE OR CHANGE: The proposed changes to Section R313-38-3 would: 1) update the incorporation of the outdated 2008 version of Title 10, Code of Federal Regulations Part 39, with the current 2013 version of Title 10, Code of Federal Regulations Part 39 and 2) R313-38-3(5)(f) references Sec. 20. 205. This reference is no longer valid and with this proposed rule change will be updated to Sec. 20. 2106.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 10 CFR Part 39 and Section 19-3-104

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The proposed changes do not add or remove significant requirements that affect the radiation control program or the Utah Radiation Control Board.

♦ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings for local government agencies. The proposed changes do not add or remove significant requirements that affect local government agencies. There are no local government agencies licensed to perform well logging services.

♦ **SMALL BUSINESSES:** Small businesses and persons other than businesses may hold a radioactive material license, but there is no anticipated cost or savings for small businesses and persons other than businesses because proposed changes do not add or remove significant requirements.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons other than small businesses, businesses, or local government entities may hold a radioactive material license, but there is no anticipated cost or savings for persons other than small businesses, businesses, or local government entities because proposed changes do not add or remove significant requirements.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no changes in compliance costs for persons affected by Section R313-38-3. The proposed changes do not add or remove significant requirements that affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses with a radioactive material license will not see a fiscal impact due to the proposed changes to Section R313-38-3. The proposed changes do not add or remove significant requirements that affect businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 RADIATION CONTROL
 THIRD FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3085
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Spencer Wickham by phone at 801-536-0082, by FAX at 801-533-4097, or by Internet E-mail at swickham@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 01/21/2014

AUTHORIZED BY: Rusty Lundberg, Director

R313. Environmental Quality, Radiation Control.
R313-38. Licenses and Radiation Safety Requirements for Well Logging.
R313-38-3. Clarifications or Exceptions.

For purposes of Rule R313-38, 10 CFR 39 (20[08]13), is incorporated by reference with the following clarifications or exceptions:

- (1) The exclusion of the following 10 CFR sections: 39.1, 39.5, 39.8, 39.11, 39.101, and 39.103;
- (2) The exclusion of the following 10 CFR references within 10 CFR 39: Sec. 40.32, and Sec. 70.33;
- (3) The exclusion of "licensed material" in 10 CFR 39.2 definitions;
- (4) The substitution of the following wording:
 - (a) License for reference to NRC license;
 - (b) Utah Radiation Control Rules for the references to:

- (i) The Commission's regulations;
- (ii) The NRC regulations;
- (iii) NRC regulations; and
- (iv) Pertinent Federal regulations;
- (c) Director for reference to Commission, except as stated in Subsection R313-38-3(4)(d);
- (d) Representatives of the Director for the references to the Commission in:
 - (i) 10 CFR 39.33(d);
 - (ii) 10 CFR 39.35(a);
 - (iii) 10 CFR 39.37;
 - (iv) 10 CFR 39.39(b); and
 - (v) 10 CFR 39.67(f);
 - (e) Director or the Director for references to:
 - (i) NRC in:
 - (A) 10 CFR 39.63(l);
 - (B) 10 CFR 39.77(c)(1)(i) and (ii); and
 - (C) 10 CFR 39.77(d)(9); and
 - (ii) Appropriate NRC Regional Office in:
 - (A) 10 CFR 39.77(a);
 - (B) 10 CFR 39.77(c)(1); and
 - (C) 10 CFR 39.77(d);
 - (f) Director, the U.S. Nuclear Regulatory Commission or an Agreement State for the references to:
 - (i) Commission or an Agreement State in:
 - (A) 10 CFR 39.35(b); and
 - (B) 10 CFR 39.43(d) and (e); and
 - (ii) Commission pursuant to Sec. 39.13(c) or by an Agreement State in:
 - (A) 10 CFR 39.43(c); and
 - (B) 10 CFR 39.51;
 - (g) In 10 CFR 39.35(d)(1), persons specifically licensed by the Director, the U.S. Nuclear Regulatory Commission, or an Agreement State for the reference to an NRC or Agreement State licensee that is authorized; and
 - (h) In 10 CFR 39.35(d)(2), reports of test results for leaking or contaminated sealed sources shall be made pursuant to Section R313-15-1208, for the reference to the following statement:
 - (i) The licensee shall submit a report to the appropriate NRC Regional Office listed in appendix D of part 20 of this chapter, within 5 days of receiving the test results. The report must describe the equipment involved in the leak, the test results, any contamination which resulted from the leaking source, and the corrective actions taken up to the time the report is made; and
 - (i) In 10 CFR 39.75(e), a U.S. Nuclear Regulatory Commission or an Agreement State for the reference to the Agreement State;
 - (5) The substitution of the following Title R313 references for specific 10 CFR references:
 - (a) Section R313-12-3 for the reference to Sec. 20.1003 of this chapter;
 - (b) Section R313-12-54 for the reference to 10 CFR 39.17;
 - (c) Subsection R313-12-55(1) for the reference to 10 CFR 39.91;
 - (d) Rule R313-15 for references to:
 - (i) Part 20; and
 - (ii) Part 20 of this chapter;
 - (e) Subsection R313-15-901(1) for the reference to Sec. 20.1901(a);

(f) Section R313-15-906 for the reference to Sec. 20.2[05]106 of this chapter;

(g) Sections R313-15-1201 through R313-15-1203 for the references to:

(i) Secs. 20.2201-20.2202; and

(ii) Sec. 20.2203;

(h) Rule R313-18 for the reference to part 19;

(i) Section R313-19-30 for the reference to Sec. 150.20 of this chapter;

(j) Section R313-19-50 for the references to:

(i) Sec. 30.50; and

(ii) Part 21 of this chapter;

(k) Section R313-19-71 for the reference to Sec. 30.71;

(l) Section R313-19-100 for the references to:

(i) 10 CFR Part 71; and

(ii) Sec. 71.5 of this chapter; and

(m) Section R313-22-33 for the reference to 10 CFR 30.33;

KEY: radioactive materials, well logging, surveys, subsurface tracer studies

Date of Enactment or Last Substantive Amendment: [~~December 10, 2008~~]2014

Notice of Continuation: October 7, 2013

Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108

Environmental Quality, Radiation Control **R313-70-5** Payment of Fees

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38146

FILED: 11/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Division of Radiation Control received a petition for agency action that requested renewal intervals for specific radioactive materials licenses (specific licenses) be increased from a five-year renewal interval to a ten-year renewal interval for a certain subset of specific licenses. During a review of the request for agency action, the Utah Radiation Control Board (Board) determined that the proposed change to the renewal interval should apply to all persons possessing a specific license. Therefore, the rule is being modified to allow a ten-year interval between license renewals.

SUMMARY OF THE RULE OR CHANGE: The proposed change to Section R313-22-34 would change the renewal interval for existing specific licenses from five years to ten years; however, newly issued specific licenses would still be

required to be renewed at a five-year interval to establish the new licensees performance with regulatory compliance. In addition, the proposed rule would allow the Director flexibility to shorten the renewal interval if the situation warranted a shorter renewal interval. Some reasons for a shorter renewal interval include new company management, new technologies, poor regulatory performance, or other situations that would warrant increased attention.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-3-104(6)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Presently over a period of ten years, a specific licensee pays two new/renewal fees and eight annual fees. The new/renewal fees are slightly lower than the annual fees for all categories of specific licenses. Under the proposed change, specific licensees would pay one new/renewal fee and nine annual fees. The difference between the new/renewal fee and the annual fee ranges from \$80 to \$890 for the specific licenses presently issued in Utah. The proposed rule should result in an increase of approximate \$28,500 in the state budget over the ten-year interval.

◆ **LOCAL GOVERNMENTS:** Some counties and cities have a specific license to possess and use certain radioactive materials. For each specific license, a county or city would pay an extra \$80 over the ten-year interval. These costs may be offset with savings from only preparing and submitting one license renewal application in the ten-year interval as opposed to the two renewal applications for each specific license now required.

◆ **SMALL BUSINESSES:** There are numerous small businesses that have been issued a specific license to possess and use certain radioactive materials. The costs to the small businesses would range from \$80 to \$890 over the ten-year period based on the type of each specific license possessed by the small businesses. Again, the costs for the majority of the small businesses may be offset with savings from only preparing and submitting one license renewal application in the ten-year interval as opposed to the two renewal applications for each specific license now required.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The costs to all persons issued a specific license to possess and use certain radioactive materials range from \$80 to \$890 over the ten-year period based on the type of each specific license possessed by the person. Again, the costs to persons may be offset with savings from only preparing and submitting one license renewal application in the ten-year interval as opposed to the two renewal applications for each specific license now required.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no expected changes to compliance costs associated with this rulemaking action. Inspection intervals will not change, only license renewal intervals will be modified.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Most specific licensees impacted by the proposed rule find the preparation of license renewal applications time consuming and would prefer the renewal interval to be extended to ten years. In general, specific licensees are supportive of modifying the renewal interval to ten years.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY
RADIATION CONTROL
THIRD FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Gwyn Galloway by phone at 801-536-4258, by FAX at 801-533-4097, or by Internet E-mail at ggalloway@utah.gov
◆ John Hultquist by phone at 801-536-4623, by FAX at 801-536-4250, or by Internet E-mail at jhultquist@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 01/15/2014

AUTHORIZED BY: Rusty Lundberg, Director

**R313. Environmental Quality, Radiation Control.
R313-70. Payments, Categories and Types of Fees.
R313-70-5. Payment of Fees.**

(1) New Application Fee: Applications for machine registration or radioactive material licensing for which a fee is prescribed, shall be accompanied by a remittance in the full amount of the fee. Applications will not be accepted for filing or processing prior to payment of the full amount specified. Applications for which no remittance is received will be returned to the applicant. Application fees will be charged irrespective of the Director's disposition of the application or a withdrawal of the application.

(2) Annual Fee: Persons and individuals who are subject to licensing or registration of radioactive material or radiation machine registration with the Department of Environmental Quality under provisions of the Utah Radiation Control Rules, are assessed an annual fee in accordance with categories of R313-70-7 and R313-70-8. The appropriate fee shall be filed annually with the Director, by July 30 for registrants or by the anniversary date for licensees. Fees for radiation machine registration will be considered late if not received annually by the last day of August. Licensees may be assessed late fees if license fees are not received within 30 days after the license anniversary date. Late fees may also be assessed for successive 30 day periods during which the annual fee or registration fee remains unpaid.

(3) Inspection Fee: Persons and entities who, under provisions of the Utah Radiation Control Rules, are subject to radiation machine registration with the Department of Environmental Quality are assessed an inspection fee in accordance with R313-70-8. Fees for

inspection of a radiation machine are due within 30 days of receipt of an invoice from the Agency. Registrants may be assessed late fees if inspection fees are not received in a timely manner.

(4) Failure to pay the prescribed fee: the Director will not process applications and may suspend or revoke licenses or registrations or may issue an order with respect to the activities as the Director determines to be appropriate or necessary in order to carry out the provisions of this part of R313-70, and of the Act.

(a) General license certificates of registration and new specific licenses issued pursuant to the provisions in R313-21 or R313-22, will be valid for a period of five years unless failure to submit appropriate fee occurs. Specific license renewals issued pursuant to the provisions in R313-22 may be valid for a period of tens years or less in accordance with R313-22-34(1)(b) and (1)(c). Machine registrations will be valid for one year during the interval outlined in R313-16-230. Failure to submit appropriate fees will render the license, certificate or registration invalid, at which time a new application with appropriate fees shall be submitted.

(b) Renewal applications shall be filed in a timely manner in accordance with R313-22-37 or R313-16-230. The radioactive material license will expire on the date specified on the license. Machine registration will expire as outlined in R313-16-230. An expired license cannot be renewed, rather the licensee will be required to submit an application for a new license and submit the appropriate application and new license fee.

([4]5) Method of Payment: Fees shall be made payable to: Division of Radiation Control, Department of Environmental Quality.

KEY: radioactive materials, x-rays, registration, fees
Date of Enactment or Last Substantive Amendment: [~~March 16, 2007~~]2014

Notice of Continuation: September 23, 2011

Authorizing, and Implemented or Interpreted Law: 19-3-104(6)

**Health, Children's Health Insurance
Program
R382-3
Accountable Care Organization
Incentives to Appropriately Use
Emergency Room Services in the
Children's Health Insurance Program**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 38102

FILED: 11/06/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to comply with provisions of H.B. 141, 2013 General Legislative Session, which require the Department to establish incentives for the appropriate use of emergency room services in the Children's Health Insurance Program (CHIP).

SUMMARY OF THE RULE OR CHANGE: This amendment establishes incentives for the appropriate use of emergency room services in CHIP.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 U.S.C. 1395dd(e) and Section 26-1-5 and Section 26-18-3 and Section 26-18-408

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no impact to the state budget because Accountable Care Organizations (ACOs) are not required to take effective action based on this legislation until 07/01/2015.
- ◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund nor provide CHIP services to CHIP recipients.
- ◆ **SMALL BUSINESSES:** There is no impact to small businesses because ACOs are not required to take effective action based on this legislation until 07/01/2015.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to ACOs, CHIP providers, and to CHIP recipients because ACOs are not required to take effective action based on this legislation until 07/01/2015.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no impact to a single ACO, a single CHIP provider, or to a CHIP recipient because ACOs are not required to take effective action based on this legislation until 07/01/2015.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no effect on business. The implementation will be done over several years.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
CHILDREN'S HEALTH INSURANCE PROGRAM
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

R382. Health, Children's Health Insurance Program.

R382-3. Accountable Care Organization Incentives to Appropriately Use Emergency Room Services in the Children's Health Insurance Program.

R382-3-1. Introduction and Authority.

(1) This rule is established under the authority of Section 26-40-103.

(2) The purpose of this rule is to establish provisions governing Accountable Care Organization (ACO) performance measures for the reduction of non-emergent use of emergency departments by beneficiaries in the Children's Health Insurance Program (CHIP).

R382-3-2. Definitions.

(1) "CHIP Beneficiary" means a child under the age of 19 who is eligible for the Children's Health Insurance Program under Title XXI of the Social Security Act as adopted in the state under Title 26, Chapter 40.

(2) "Non-emergent medical condition" means a medical condition that does not meet the criteria of an emergency medical condition under 42 U.S.C. 1395dd (e) of the Emergency Medical Treatment and Active Labor Act.

(3) "Non-emergent medical care" means:

(a) Medical care provided in an emergency room for the treatment of a non-emergent medical condition.

(4) "Non-emergent medical care" does not mean:

(a) Medical services necessary to conduct a medical screening examination to determine if the CHIP beneficiary has an emergent or non-emergent medical condition; and

(b) Medical care provided to a CHIP beneficiary who, using a prudent layperson standard, reasonably believes he is experiencing an "emergency medical condition" as defined by 42 U.S.C. 1395dd(e) of the Emergency Medical Treatment and Active Labor Act.

R382-3-3. Performance Measures.

(1) An ACO that contracts with the Department to provide services to CHIP beneficiaries shall report the following information to the Department in accordance with the terms of its contract:

(a) Emergency room visits with low acuity CPT codes 99281 or 99282;

(b) Actions the ACO takes to expand primary care and urgent care for CHIP beneficiaries who are enrolled in the Accountable Care Plan;

(c) Actions the ACO takes to implement emergency room diversion plans that include: (i) Weekday, evening and weekend access to primary care providers and community health centers for CHIP beneficiaries and

(ii) Other innovations for expanding access to primary care.

(d) Other quality of care for CHIP beneficiaries who are enrolled in an ACO as required by the Department.

KEY: children's health benefits

Date of Enactment or Last Substantive Amendment: 2014

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-40-103; 26-18-408

**Health, Family Health and
Preparedness, Children with Special
Health Care Needs
R398-4
Cytomegalovirus Public Health Initiative**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 38139

FILED: 11/14/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to clarify aspects of the Cytomegalovirus (CMV) Public Health Initiative.

SUMMARY OF THE RULE OR CHANGE: This rule identifies when newborn infant hearing screening result(s) requires testing for CMV, medical practitioner reporting requirements, and under what circumstances a newborn infant may not fall under the CMV testing requirements.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-10-10

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: Costs include staff time to distribute information to medical practitioners about the law and to collect and analyze provider reports of CMV testing.
- ◆ LOCAL GOVERNMENTS: Minimal costs anticipated which may include staff time to distribute information provided by the Department of Health to affected constituents.
- ◆ SMALL BUSINESSES: Cost--Time for medical practitioners to refer patients for CMV testing and follow-up when results are received. As this is a new program, there are no records to indicate cost burden or savings.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Cost to families--Time to obtain CMV testing. Savings to families--Timely follow-up when testing for CMV is positive may reduce medical burdens. As this is a new program, there are no records to indicate cost burden or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Cost to medical practitioners and families--Time to review hearing screening results, determine appropriate follow-up, complete CMV testing, and any related medical follow-up as needed for positive CMV results. As this is a new program, there are no records to indicate cost burden or savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This will have no impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
CHILDREN WITH SPECIAL HEALTH CARE NEEDS
44 N MARIO CAPECCHI DR
SALT LAKE CITY, UT 84113
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Rebecca Giles by phone at 801-538-6259, or by Internet E-mail at rgiles@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

R398. Health, Family Health and Preparedness, Children with Special Health Care Needs.

R398-4. Cytomegalovirus Public Health Initiative.

R398-4-1. Definitions.

(1) "UDOH" and "Department" means the Utah Department of Health.

(2) "Hearing screening" means the completion of an objective, physiological test or battery of tests administered to determine the infant's hearing status and the need for further diagnostic testing by an audiologist or physician using the Department approved instrumentation, protocols and pass/refer criteria.

(3) "Medical practitioner" means the newborn infant's primary medical caregiver.

(4) "Parent" means a natural biological parent, a step-parent, adoptive parent, legal guardian, or other legal custodian of a child.

R398-4-2. Purpose and Authority.

(1) The purpose of this rule is to clarify when a newborn infant hearing screening requires testing for CMV, medical practitioner reporting requirements and under what circumstances a newborn infant may not fall under the CMV testing requirements.

(2) This rule is authorized by Section 26-10-10(5) which provides that the Department may make rules to administer the provisions of this section.

R398-4-3. Clarification of When a Newborn Must Be Referred for CMS Testing.

(1) The newborn must be referred for CMV testing if the infant fails both the initial hearing screen routinely done at birth and the subsequent follow-up screen.

(2) The newborn must be referred for CMV testing when the initial failed screen is obtained after 14 days of age.

R398-4-4. Special Populations of Newborns.

(1) In special populations of newborns where newborn hearing screening(s) cannot be accomplished prior to 21 days of age, testing for CMV is left to the discretion of the medical practitioner(s) caring for the newborn.

(2) Special populations of newborns may include, but are not limited to, premature or medically fragile newborns or newborns receiving on-going medical care.

R398-4-5. Reporting Requirements.

Medical practitioners are required to submit results of the CMV testing to UDOH for each newborn under their care who is referred for CMV testing within 10 days of receiving results.

KEY: cytomegalovirus, CMV, newborn hearing screening

Date of Enactment or Last Substantive Amendment: 2014

Authorizing, and Implemented or Interpreted Law: 26-10-10

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-14
Home Health Services**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38130

FILED: 11/13/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to streamline and consolidate the scope of home health services for Medicaid recipients.

SUMMARY OF THE RULE OR CHANGE: This amendment consolidates the scope of home health services by removing sections in the rule text that specify reimbursement, eligibility, and service coverage, and deferring to the scope of services found in the Home Health Services Provider Manual and in the Medicaid State Plan.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 CFR 440.70 and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no impact to the state budget because this change only consolidates the scope of home health services for Medicaid recipients.

♦ **LOCAL GOVERNMENTS:** There is no impact to local governments because they do not fund or provide home health services to Medicaid recipients.

♦ **SMALL BUSINESSES:** There is no impact to small businesses because this change only consolidates the scope of home health services for Medicaid recipients.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers and to Medicaid recipients because this change only consolidates the scope of home health services for Medicaid recipients.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to a single Medicaid provider or to a Medicaid recipient because this change only consolidates the scope of home health services for Medicaid recipients.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This makes no change in eligibility or benefits so it has no impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

♦ Nina Baker by phone at 801-538-9127, by FAX at 801-538-6412, or by Internet E-mail at nabaker@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**R414-14. Home Health Services.****R414-14-1. Introduction.**

The Home Health Services program provides a scope of home health services for Medicaid recipients in accordance with the Home Health Agencies Utah Medicaid Provider Manual and Attachment 4.19-B of the Medicaid State Plan, as incorporated into Section R414-1-5.

[R414-14-1. Introduction and Authority.

~~(1) Home health services are part-time intermittent health care services that are based on medical necessity and provided to eligible persons in their places of residence when the home is the most appropriate and cost effective setting that is consistent with the client's medical need. The goals of home health care are to minimize the effects of disability or pain; promote, maintain, or protect health; and prevent premature or inappropriate institutionalization.~~

(2) This rule is authorized under Section 26-18-3 and governs the services allowed under 42 CFR 440.70 and 42 CFR, Part 484. 42 U.S.C. Secs. 1395u, 1395x, and 1395y also authorize home health services.

R414-14.2. Definitions.

The following definition applies to home health services. In addition, the Department adopts the definitions in the Home Health Agencies Provider Manual and incorporates them by reference in Section R414-1-5.

(1) "Plan of Care" means a written plan developed cooperatively by home health agency staff and the attending physician. The plan is designed to meet specific needs of an individual, is based on orders written by the attending physician, and is approved and periodically reviewed and updated by the attending physician.

R414-14.3. Client Eligibility Requirements.

Home health services are available to categorically eligible and medically needy individuals.

R414-14.4. Program Access Requirements.

(1) Home health service shall be provided only to an individual who is under the care of a physician. The attending physician shall write the orders on which a plan of care is established and certify the necessity for home health services.

(2) The home health agency may accept a recipient for home health services only if there is a reasonable expectation that a recipient's needs can be met adequately by the agency in the recipient's place of residence.

(3) The attending physician and home health agency personnel must review and sign a total plan of care as often as the severity of the patient's condition requires, but at least once every 60 days in accordance with 42 CFR 440.70.

(4) The home health agency must provide quality, cost-effective care and a safe environment in the home through registered or licensed practical nurses who have adequate training, knowledge, judgement, and skill.

(5) Home health aide services may only be provided pursuant to written instructions and under the supervision of a registered nurse by a person selected and trained to assist with routine care not requiring specialized nursing skills.

(6) Over the long term service period, the cost to provide the required service in the patient's home must be no greater than the cost to meet the client's medical needs in an alternative setting.

(7) A home health agency may provide an initial assessment visit without prior authorization to assess the patient's needs and establish a plan of care. After the initial visit, all home health care and service must be based on prior authorization.

R414-14.5. Service Coverage.

(1) Two levels of home health service are covered: Skilled Home Health Services and Supportive Maintenance Home Health Services.

(2) Skilled nursing service encompasses the expert application of nursing theory, practice and techniques by a registered professional nurse to meet the needs of patients in their place of residence through professional judgments, through independently solving patient care problems, and through application of standardized procedures and medically delegated techniques.

(3) Home health aide service encompasses assistance with, or direct provision of, routine care not requiring specialized nursing skill. The home health aide is closely supervised by a registered professional nurse to assure competent care. The aide works under written instructions and provides necessary care for the patient.

(4) Supportive maintenance home health care serves those patients who have a medical condition which has stabilized, but who demonstrate continuing health problems requiring minimal assistance, observation, teaching, or follow-up. This assistance can be provided by a certified home health agency through the knowledge and skill of a licensed practical nurse (LPN) or a home health aide with periodic supervision by a registered nurse. A physician continues to provide direction.

(5) IV therapy, enteral and parenteral nutrition therapy are provided as a home health service either in conjunction with skilled or maintenance care or as the only service to be provided. Specific policy is outlined in the medical supplies program and all requirements of the home health program must be met in relation to orders, plan of care, and 60 day review and recertification.

(6) Physical therapy and speech pathology services are occasionally indicated and approved for the patient needing home health service. Any therapy services offered by the home health agency directly or under arrangement must be ordered by a physician and provided by a qualified licensed therapist in accordance with the plan of care. Occupational therapy and speech pathology services in the home are available only to clients who are pregnant women or who are individuals eligible under the Early and Periodic Screening, Diagnosis and Treatment Program.

(7) Medical supplies utilized for home health service must be suitable for use in the home in providing home health care, consistent with physician orders, and approved as part of the plan of care.

(8) Medical supplies provided by the home health agency do not require prior approval, but are limited to:

(a) supplies used during the initial visit to establish the plan of care;

(b) supplies that are consistent with the plan of care; and

(c) non-durable medical equipment.

(9) Supportive maintenance home health services is limited in time equal to one visit per day determined by care needs and care giver participation.

(10) A registered nurse employed by an approved, certified home health agency must supervise all home health services. Nursing service and all approved therapy services must be provided by the appropriate licensed professional.

(11) Only one home health provider (agency) may provide service to a patient during any period of time. However, a subcontractor of a home health provider may provide service if the original agency is the only provider that bills for services. A second provider or agency requesting approval of service will be denied.

(12) Home health care provided to a patient capable of self care is not a covered Medicaid benefit.

(13) Personal care services, except as determined necessary in providing skilled care, is not a covered home health benefit.

(14) Housekeeping or homemaking services are not covered home health benefits.

(15) Occupational therapy is not a covered Medicaid benefit except for children covered under CHEC for medically necessary service.

~~(16) Home health nursing service beyond the initial evaluation visit requires prior authorization.~~

~~(17) All home health service beyond the initial visit, including supplies and therapies, shall be in the plan of care that the home health agency submits for prior authorization. Prior to providing the service, the home health agency must first obtain approval for the level of skilled or maintenance service based on the prior authorization request and a review of the plan of care. If level of service needs change, the home health agency must submit a new prior authorization request.~~

~~(18) A home health agency may provide therapy services only in accordance with medical necessity and after receiving prior authorization.~~

R414-14-6. Reimbursement for Services.

~~Reimbursement for home health services shall be provided as documented in the Utah Medicaid State Plan, ATTACHMENT 4.19-B. The fee schedule was established after examining usual and customary charges in the industry, applying appropriate discounts, and relying on professional judgment.~~

]

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: [~~November 15, 2011~~]**2014**

Notice of Continuation: September 23, 2009

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3

Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-21
Physical and Occupational Therapy

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 38132
FILED: 11/13/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to streamline and consolidate the scope of physical therapy and occupational therapy services for Medicaid recipients.

SUMMARY OF THE RULE OR CHANGE: This amendment consolidates the scope of physical therapy and occupational therapy services by removing sections in the rule text that specify reimbursement, eligibility, and service coverage, and deferring to the scope of services found in the Physical Therapy and Occupational Therapy Services Provider Manual and in the Medicaid State Plan.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 CFR 440.110 and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no impact to the state budget because this change only consolidates the scope of physical therapy and occupational therapy services for Medicaid recipients.

◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they do not fund or provide physical therapy and occupational therapy services to Medicaid recipients.

◆ **SMALL BUSINESSES:** There is no impact to small businesses because this change only consolidates the scope of physical therapy and occupational therapy services for Medicaid recipients.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers and to Medicaid recipients because this change only consolidates the scope of physical therapy and occupational therapy services for Medicaid recipients.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to a single Medicaid provider or to a Medicaid recipient because this change only consolidates the scope of physical therapy and occupational therapy services for Medicaid recipients.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This makes no change in eligibility or benefits so it has no impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

◆ Nina Baker by phone at 801-538-9127, by FAX at 801-538-6412, or by Internet E-mail at nabaker@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-21. Physical Therapy and Occupational Therapy.

R414-21-1. Introduction.

The Physical Therapy and Occupational Therapy programs provide a scope of services for Medicaid recipients in accordance with the Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual and Attachment 4.19-B of the Medicaid State Plan, as incorporated into Section R414-1-5.

[R414-21-1. Introduction and Authority.

(1) This rule governs physical and occupational therapy services provided to Medicaid clients. It implements the provision of physical therapy and occupational therapy evaluation and treatment as authorized by 42 CFR 440.110(a)(1)(2), 440.110(b)(1)(2), and 440.70(b)(4).

(2) Physical and occupational therapy are optional services for adults.

R414-21-2. Eligibility Requirements.

Physical therapy and occupational therapy services are available to categorically and medically needy individuals under Medicaid when received from an independent occupational therapist or an independent physical therapist including group practices, rehabilitation centers, and hospitals.

R414-21-3. Program Access Requirements.

(1) Physical therapy may be provided only by a licensed physical therapist. The physical therapist may have a physical therapy assistant or aide under the physical therapist's immediate supervision provide the direct service so long as the physical therapist is present in the area where the person supervised is performing services and immediately available to assist the person being supervised in the services being performed.

(2) Occupational therapy may be provided only by a licensed occupational therapist. The occupational therapist may have a occupational therapy assistant under the occupational therapist's immediate supervision provide the direct service so long as the occupational therapist is present in the area where the person supervised is performing services and immediately available to assist the person being supervised in the services being performed.

R414-21-4. Service Coverage.

(1) Medicaid covers the following physical therapy services:

- (a) therapeutic exercise;
- (b) the application of heat, cold, water, air, sound, massage, and electricity;
- (c) recipient evaluations and tests;
- (d) measurements of strength, balance, endurance, range of motion and activities.

(2) Medicaid covers occupational therapy services to treat the following:

- (a) traumatic brain injury;
- (b) traumatic spinal cord injury;
- (c) traumatic hand injury;
- (d) congenital anomalies or developmental disabilities resulting in neurodevelopmental deficits; or

(e) cerebral vascular accident (CVA), but only if treatment begins within 90 days after the onset of the CVA.

(3) In exercising its best professional judgement to determine the amount, duration, and scope of optional services sufficient to reasonably achieve the purpose of the physical therapy or occupational therapy service, the Department uses the guidelines provided by the American Physical Therapy Association and the American Occupational Therapy Association to determine the number of visits allowed for the diagnosis:

- (4) Medicaid does not cover:
 - (a) services for social or educational needs only;
 - (b) services to a recipient with a stable chronic condition whose function cannot be improved by the application physical therapy services;
 - (c) service to a recipient with no documented potential for improvement or who has reached maximum potential for improvement;
 - (d) non-diagnostic, non-therapeutic, repetitive or reinforcing procedures or other maintenance services, except for services that are both:
 - (i) to children under the age of 20 years; and
 - (ii) are limited to one therapy visit per month to train the caregiver to provide routine care, and repetitive or reinforced procedures in the residence.

(5) Medicaid pays for only one physical therapy session per day. Medicaid pays for only one occupational therapy session per day.

(6) Services to a resident of an Intermediate Care Facility for the Mentally Retarded are paid as part of the per diem payment for the recipient. Medicaid does not pay separately for those services.

(7) Physical therapy is limited to 20 visits annually without obtaining prior authorization to assure that the sessions are within the amount, duration, and scope limits established by the Department.

(8) Occupational therapy is limited to 20 visits annually without prior authorization to assure that the visits are within the amount, duration, and scope limits established by the Department.

R414-21-5. Services Provided Through Home Health Agencies.

(1) If a physical therapy service is provided outside of the physical therapists treatment facility, the provider must obtain prior authorization from the Department for each physical therapy session, including the evaluation, to assure that the sessions are within the amount, duration, and scope limits established by the Department and that the recipient could not obtain the service at the physical therapist's treatment facility.

(2) The Department does not cover occupational therapy services that are not provided at the occupational therapist's treatment facility.

R414-21-6. Reimbursement.

(1) Physical and occupational therapy is reimbursed using the fee schedule established in the Utah Medicaid State Plan and incorporated by reference in Section R414-1-5.

(2) Services provided by a physical therapy assistant or aide or by an occupational therapy assistant must be billed as part of the services provided by the supervising physical or occupational therapist.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: [July 1, 2009]2014

Notice of Continuation: March 2, 2012
Authorizing, and Implemented or Interpreted Law: 26-1-4.1; 26-1-5; 26-18-3

**Health, Health Care Financing,
 Coverage and Reimbursement Policy**
R414-49
Dental Services

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 38133
 FILED: 11/13/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to streamline and consolidate the scope of dental services for Medicaid recipients.

SUMMARY OF THE RULE OR CHANGE: This amendment consolidates the scope of dental services by removing sections in the rule text that specify reimbursement, eligibility, and service coverage, and deferring to the scope of services found in the Dental Services Utah Medicaid Provider Manual and in the Medicaid State Plan.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 CFR 440.100 and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no impact to the state budget because this change only updates and clarifies dental services for Medicaid recipients.
- ◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they do not fund or provide dental services to Medicaid recipients.
- ◆ **SMALL BUSINESSES:** There is no impact to small businesses because this change only updates and clarifies dental services for Medicaid recipients.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid recipients and to Medicaid providers because this change only updates and clarifies dental services for Medicaid recipients.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to a single Medicaid provider or to a Medicaid recipient because this change only consolidates the scope of dental services for Medicaid recipients.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This makes no change in eligibility or benefits so it has no impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
 HEALTH CARE FINANCING,
 COVERAGE AND REIMBURSEMENT POLICY
 CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY, UT 84116-3231
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov
- ◆ Nina Baker by phone at 801-538-9127, by FAX at 801-538-6412, or by Internet E-mail at nabaker@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-49. Dental Services.

R414-49-1. Introduction.

The Medicaid Dental Program provides a scope of dental services for Medicaid recipients in accordance with the Dental Services Utah Medicaid Provider Manual and Attachment 4.19-B of the Medicaid State Plan, as incorporated into Section R414-1-5.

[R414-49-1. Introduction and Authority.

- ~~_____ (1) The Medicaid Dental Program provides a scope of dental services to meet the basic dental needs of Medicaid recipients.~~
- ~~_____ (2) Dental services are authorized by 42 CFR, October 1995 ed., Sections 440.100, 440.120, 483.460, which are adopted and incorporated by reference.~~

R414-49-2. Definitions.

~~_____ In addition to the definitions in R414-1-1, the following definitions apply to this rule:~~

- ~~_____ (1) "Adult" means a person who has attained the age of 21.~~
- ~~_____ (2) "Child" means a person under age 21 who is eligible for the EPSDT (CHEC) program.~~
- ~~_____ (3) "Child Health Evaluation and Care" (CHEC) is the Utah-specific term for the federally mandated program of early and periodic screening, diagnosis, and treatment (EPSDT) for children under the age of 21.~~

~~(4) "Dental services" means diagnostic, preventive, or corrective procedures provided by, or under the supervision of, a dentist in the practice of his profession.~~

~~(5) "Emergency services" means treatment of an unforeseen, sudden, and acute onset of symptoms or injuries requiring immediate treatment, where delay in treatment would jeopardize or cause permanent damage to a person's dental health.~~

R414-49-3. Client Eligibility Requirements.

~~Dental services are available to clients who are pregnant women or who are individuals eligible under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Dental services to non-pregnant clients and to non-EPSDT clients are limited to emergency services only as defined in the Utah Medicaid State Plan Attachment 3.1-A, Attachment #10 and Attachment 3.1-B, Attachment #10.~~

R414-49-4. Program Access Requirements.

~~Dental services are available only from a dentist who meets all of the requirements necessary to participate in the Utah Medicaid Program, and who has signed a provider agreement.~~

R414-49-5. Service Coverage.

~~Specific services are identified for pregnant women and for children eligible for the EPSDT (CHEC) program, since program covered services may differ. Specific program covered services for residents of ICFs/MR are detailed in this section.~~

~~(1) Diagnostic services are covered as follows:~~

~~(a) Each provider may perform a comprehensive oral evaluation one time only.~~

~~(b) A limited problem-focused oral evaluation.~~

~~(c) Each provider may perform either two periodic oral evaluations, or a comprehensive and a periodic oral evaluation per calendar year.~~

~~(d) A choice of panoramic film, a complete series of intraoral radiographs, or a bitewing series of radiographs of diagnostic quality.~~

~~(e) Study models or diagnostic casts for children.~~

~~(2) Preventive services are covered as follows:~~

~~(a) Child:~~

~~(i) Two prophylaxis treatments in a calendar year by a provider, with or without fluoride.~~

~~(ii) Occlusal sealants are a benefit on the permanent molars of children under age 18.~~

~~(iii) Space maintainers.~~

~~(b) Pregnant Women: Two prophylaxis treatments in a calendar year by a provider.~~

~~(3) Restorative services are covered as follows:~~

~~(a) Amalgam restorations, composite restorations on anterior teeth, stainless steel crowns, crown build-up, prefabricated post and core, crown repair, and resin or porcelain crowns on permanent anterior teeth for children.~~

~~(b) Amalgam restorations, and composite restorations on anterior teeth for pregnant women.~~

~~(4) Endodontics services are covered as follows:~~

~~(a) Therapeutic pulpotomy for primary teeth.~~

~~(b) Root canals, except for permanent third molars or primary teeth.~~

~~(c) Apicoectomies.~~

~~(5) Periodontics services are covered as follows:~~

~~(a) Root planing or periodontal treatment for children.~~

~~(b) Gingivectomies for patients who use anticonvulsant medication, as verified by their physician.~~

~~(6) Oral Surgery services are covered as follows:~~

~~(a) Extractions.~~

~~(b) Surgery for emergency treatment of traumatic injury.~~

~~(c) Emergency oral and maxillofacial services provided by dentists or oral and maxillofacial surgeons.~~

~~(7) Prosthodontics services are covered as follows:~~

~~Initial placement of dentures, including the relining to assure the desired fit.~~

~~(a) Full Dentures~~

~~(i) Child: Complete dentures.~~

~~(ii) Pregnant Women: "Initial" dentures.~~

~~(b) Partial dentures may be provided if the denture replaces an anterior tooth or is required to restore mastication ability where there is no mastication ability present on either side.~~

~~(c) Relining, rebasing, or repairing of existing full or partial dentures.~~

~~(8) Medicaid covered dental services are available to residents of an ICF/MR on a fee-for-service basis, except for the annual exam, which is part of the per diem paid to the ICF/MR.~~

~~(9) Patients who receive total parenteral or enteral nutrition may not receive dentures.~~

~~(10) The provider must mark all new placements of full or partial dentures with the patient's name to prevent lost or stolen dentures in facilities licensed under Title 26, Chapter 21.~~

~~(11) General anesthesia and I.V. sedation are covered services.~~

~~(12) Fixed bridges, osseo-implants, sub-periosteal implants, ridge augmentation, transplants or replants are not covered services.~~

~~(13) Pontic services, vestibuloplasty, occlusal appliances, or osteotomies are not covered services.~~

~~(14) Consultations or second opinions not requested by Medicaid are not covered services.~~

~~(15) Treatment for temporomandibular joint syndrome, its prevention or sequela, subluxation, therapy, arthroscopy, meniscectomy, eondylectomy are not covered services.~~

~~(16) Prior authorization is required for gingivectomies, full mouth debridements, dentures, partial dentures, porcelain to metal crowns and general anesthesia procedures.~~

R414-49-6. Reimbursement.

~~(1) Reimbursement for Dental Services is through select ADA dental codes which are based on an established fee schedule unless a lower amount is billed. The Department pays the lower of the amount billed and the rate on the schedule.~~

~~(2) The amount billed cannot exceed usual and customary charges for private pay patients. Fee schedules were initially established after consultation with provider representatives. Adjustments to the schedule are made in accordance with appropriations and to produce efficient and effective services.~~

~~(3) Providers in urban counties (Utah, Salt Lake, Davis, and Weber counties) who sign the Dental Incentive Agreement and providers in rural counties shall receive a 20% increase in the allowable fees paid for Medicaid dental services.~~

]

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: [~~August 10, 2012~~2014]

Notice of Continuation: November 2, 2009

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-50
Dental, Oral and Maxillofacial Surgeons**

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 38134

FILED: 11/13/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule repeal is to streamline and consolidate the scope of dental, oral, and maxillofacial services for Medicaid recipients. The services that are repealed in this rule are consolidated in the companion filing of Rule R414-49. (DAR NOTE: The proposed amendment to Rule R414-49 is under DAR No. 38133 in this issue, December 1, 2013, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 CFR 440.100 and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no impact to the state budget because the services that are repealed in this rule are consolidated in the companion filing of Rule R414-49.
- ◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they do not fund or provide dental, oral, and maxillofacial services to Medicaid recipients.
- ◆ **SMALL BUSINESSES:** There is no impact to small businesses because the services that are repealed in this rule are consolidated in the companion filing of Rule R414-49.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers and to Medicaid recipients because the services that are repealed in this rule are consolidated in the companion filing of Rule R414-49.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no impact to a single Medicaid provider or to a Medicaid recipient because the services that are repealed in this rule are consolidated in the companion filing of Rule R414-49.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This makes no change in eligibility or benefits so it has no impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov
- ◆ Nina Baker by phone at 801-538-9127, by FAX at 801-538-6412, or by Internet E-mail at nabaker@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

[R414-50. Dental, Oral and Maxillofacial Surgeons.

~~R414-50-1. Introduction and Authority.~~

~~———— (1) The Medicaid Oral and Maxillofacial Surgery Program provides a scope of oral and maxillofacial surgery services to meet the basic needs of Medicaid clients. This includes services by both oral and maxillofacial surgeons and general dentists if surgery is performed by a general dentist in an emergency situation and an oral and maxillofacial surgeon is not available.~~

~~———— (2) Oral and maxillofacial surgery services are authorized by 42 USC 1396d(a)(5).~~

~~R414-50-2. Definitions.~~

~~———— Definitions for this rule are found in R414-1-1. In addition:~~

~~———— (1) "Oral and Maxillofacial Surgeons" means those individuals who have completed a post graduate curriculum from an accredited institution of higher learning and are board-certified or board-eligible in oral and maxillofacial surgery.~~

~~———— (2) "Oral and maxillofacial surgery" means that part of dental practice which deals with the diagnosis and surgical and adjunctive treatment of diseases, injuries, and defects of the oral and maxillofacial regions.~~

~~R414-50-3. Client Eligibility Requirements.~~

~~———— (1) Oral and maxillofacial surgery services are available only to clients who are pregnant women or who are individuals eligible~~

under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Nevertheless, physician, medical and surgical services performed by an oral surgeon are available to all categorically and medically needy clients:

(2) Dental services are available to clients who are pregnant women or who are individuals eligible under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Dental services to non-pregnant clients and to non-EPSDT clients are limited to emergency services only as defined in the Utah Medicaid State Plan Attachment 3.1-A, Attachment #10 and Attachment 3.1-B, Attachment #10.

R414-50-4. Program Access Requirements.

Oral and maxillofacial surgery services are available only from an oral and maxillofacial surgeon who is a Medicaid provider. These services are available from a dentist provider if an oral and maxillofacial surgeon is unavailable.

R414-50-5. Service Coverage.

Emergency services outlined in this section are covered services for clients who are pregnant women or who are individuals eligible under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program. Services to non-pregnant clients and to non-EPSDT clients are noted in the Utah Medicaid State Plan Attachment 3.1-A, Attachment #10 and Attachment 3.1-B, Attachment #10.

(1) Emergency services provided by a dentist in areas where an oral and maxillofacial surgeon is unavailable are covered services.

(2) Appropriate general anesthesia necessary for optimal management of the emergency is a covered service.

(3) Hospitalization of patients for dental surgery may be a covered service if a patient's physician, at the time of the proposed hospitalization, verifies that the patient's general health status dictates that hospitalization is necessary for the health and welfare of the patient.

(4) Treatment of temporomandibular joint fractures is a covered service. All other temporomandibular joint treatments are not covered services.

(5) For procedures requiring prior approval, Medicaid shall deny payment if the services are rendered before prior approval is obtained. Exceptions may be made for emergency services, or for recipients who obtain retroactive eligibility. The provider must apply for approval as soon as is practicable after the service is provided.

(6) Extraction of primary teeth at or near the time of exfoliation, as evidenced by mobility or loosening of the teeth, is not a covered service.

R414-50-6. Reimbursement.

(1) Fees for services for which the Department will pay dentists are established from the physician's fees for CPT codes as described in the State Plan, Attachment 4.19-B, Section D-Physicians. Fee schedules were initially established after consultation with provider representatives. Adjustments to the schedule are made in accordance with appropriations and to produce efficient and effective services.

(2) The Department pays the lower of the amount billed and the rate on the schedule. A provider shall not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private-pay patients.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: August 10, 2012

Notice of Continuation: October 21, 2009

Authorizing, and Implemented or Interpreted Law: 26-1-4.1; 26-1-5; 26-18-3]

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-51

Dental, Orthodontia

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 38135

FILED: 11/13/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule repeal is to streamline and consolidate the scope of dental, orthodontia services for Medicaid recipients. The services that are repealed in this rule are consolidated in the companion filing of Rule R414-49. (DAR NOTE: The proposed amendment to Rule R414-49 is under DAR No. 38133 in this issue, December 1, 2013, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 CFR 440.100 and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no impact to the state budget because the services that are repealed in this rule are consolidated in the companion filing of Rule R414-49.

♦ **LOCAL GOVERNMENTS:** There is no impact to local governments because they do not fund or provide dental, orthodontia services to Medicaid recipients.

♦ **SMALL BUSINESSES:** There is no impact to small businesses because the services that are repealed in this rule are consolidated in the companion filing of Rule R414-49.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers and to Medicaid recipients because the services that are repealed in this rule are consolidated in the companion filing of Rule R414-49.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no impact to a single Medicaid provider or to a Medicaid recipient because the services that are repealed in this rule are consolidated in the companion filing of Rule R414-49.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This makes no change in eligibility or benefits so it has no impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov
◆ Nina Baker by phone at 801-538-9127, by FAX at 801-538-6412, or by Internet E-mail at nabaker@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

[R414-51. Dental, Orthodontia.

R414-51-1. Introduction and Authority.

(1) The Medicaid Orthodontia Program provides orthodontia services for Medicaid eligible children who have a handicapping malocclusion as a result of birth defects, accident, or abnormal growth patterns, and for Medicaid eligible pregnant women who have a handicapping malocclusion as a result of a recent accident or disease, of such severity that they are unable to masticate, digest, or benefit from their diet.

(2) Orthodontia services are authorized by 42 CFR 440.100(a), 440.225, 441.56(b)(2), 441.57, October, 1997 ed, which are adopted and incorporated by reference.

R414-51-2. Definitions.

In addition to the definitions in R414-1, the following definitions also apply to this rule:

(1) "Adult" means an individual who is 21 years of age or older.

(2) "Child" means an individual who is under 21 years of age.

(3) "Salzmann's Index" means the "Handicapping Malocclusion Assessment Record" by J. A. Salzmann, used for assessment of handicapping malocclusion, as adopted by the Board of Directors of the American Association of Orthodontists and the

Council on Dental Health of the American Dental Association. This index provides a universal numerical measurement of the total malocclusion.

R414-51-3. Client Eligibility Requirements.

Orthodontia services are available only to clients who are pregnant women or who are individuals eligible under the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program.

R414-51-4. Program Access Requirements.

(1) Orthodontia services are available to children who meet the requirements of having a handicapping malocclusion identified in an Early and Periodic Screening, Diagnosis and Treatment (EPSDT) exam.

(2) The Department shall determine medical necessity for orthodontia services based upon:

(a) evaluation of the malocclusion using the Salzmann's Index from models of the teeth submitted by the dentist or orthodontist; and

(b) evidence of medical necessity provided by the primary dentist, orthodontist, or physician.

(3) The primary care physician, or the physician or dentist who completes the EPSDT screening examination, may contribute information pertaining to the medical necessity for services.

(4) Qualified providers include dentists, orthodontists, and oral and maxillofacial surgeons.

R414-51-5. Service Coverage.

(1) Medicaid considers a Salzmann's Index score of 30 or higher a level of handicapping malocclusion for which orthodontia is a covered service.

(2) Service coverage includes:

(a) a wax bite and study models of the teeth;

(b) removal of teeth, or other surgical procedures, if necessary to prepare for an orthodontic appliance;

(c) attachment of an orthodontic appliance;

(d) adjustments of an appliance; and

(e) removal of an appliance.

R414-51-6. Limitations.

Medicaid does not cover orthodontia for:

(1) cosmetic or esthetic reasons;

(2) dental surgical procedures which are cosmetic even when performed in conjunction with orthodontia;

(2) treatment of any temporomandibular joint condition or dysfunction; or

(3) conditions in which radiographic evidence of bone loss has been documented.

R414-51-7. Reimbursement.

(1) Fees for services for which the Department will pay orthodontists are established from the physician's fees for CPT or CDT codes as described in the State Plan, Attachment 4.19-B.

(2) The Department pays the lower of the amount billed and the rate on the schedule. A provider shall not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private-pay patients.

~~KEY: Medicaid, dental, orthodontia~~
~~Date of Enactment or Last Substantive Amendment: August 14, 2013~~
~~Notice of Continuation: April 30, 2013~~
~~Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3]~~

Health, Health Care Financing,
 Coverage and Reimbursement Policy

R414-306-5

Medical Transportation

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38129

FILED: 11/13/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to streamline and consolidate the scope of medical transportation for Medicaid recipients.

SUMMARY OF THE RULE OR CHANGE: This amendment consolidates the scope of medical transportation by removing criteria in the rule text, and deferring to the scope of services found in the Medical Transportation Utah Medicaid Provider Manual.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There is no impact to the state budget because this change only consolidates the scope of medical transportation for Medicaid recipients.
- ◆ LOCAL GOVERNMENTS: There is no impact to local governments because they do not fund or provide medical transportation to Medicaid recipients.
- ◆ SMALL BUSINESSES: There is no impact to small businesses because this change only consolidates the scope of medical transportation for Medicaid recipients.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no impact to Medicaid providers and to Medicaid recipients because this change only consolidates the scope of medical transportation for Medicaid recipients.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to a single Medicaid provider or to a Medicaid recipient because this change only consolidates the scope of medical transportation for Medicaid recipients.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no change to benefits so no effect on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
 HEALTH CARE FINANCING,
 COVERAGE AND REIMBURSEMENT POLICY
 CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY, UT 84116-3231
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-306. Program Benefits and Date of Eligibility.

R414-306-5. Medical Transportation.

The Medical Transportation program provides medical transportation services for Medicaid recipients in accordance with the Medical Transportation Utah Medicaid Provider Manual, as incorporated into Section R414-1-5.

~~_____ (1) The Department provides non-emergency medical transportation as required by 42 CFR 431.53.~~

~~_____ (2) The following applies to all forms of non-emergency medical transportation including services provided by a contracted medical transportation provider and reimbursement for use of personal transportation:~~

~~_____ (a) Non-emergency medical transportation is limited to transportation expenses to go to and from the nearest appropriate Medicaid provider to obtain a Medicaid covered service that is medically necessary. If the recipient chooses to travel to a Medicaid provider that is not the nearest appropriate provider, reimbursement of mileage is limited to the distance to go to the nearest appropriate provider. The Department will not cover transportation expenses to go to non-Medicaid providers, or to obtain services not covered by the Medicaid plan.~~

~~_____ (b) Non-emergency medical transportation is limited to individuals who are covered under the Traditional Medicaid benefit plan. Individuals covered by the Non-Traditional Medicaid plan, the Primary Care Network, the Covered-At-Work program, and Medicare Cost-Sharing programs are not eligible for non-emergency medical transportation.~~

~~(c) If transportation is available to a Traditional Medicaid recipient without cost to the recipient, the recipient shall use this transportation. A Traditional Medicaid recipient who needs specialized transportation and who meets the criteria for the Medicaid transportation contractor services found in Subsection R414-306-5(14) may receive transportation from the Medicaid transportation contractor.~~

~~(d) A Traditional Medicaid recipient who has access to and is able to use public transportation to get to medical appointments may receive a bus pass upon request. The bus pass may be used to pay the fare for an attendant who accompanies a recipient under age 18 or a recipient who has a medical need for an attendant. A recipient who has access to and is capable of using public paratransit services can request authorization to use such transportation. The recipient must follow procedures and meet criteria required by the paratransit provider.~~

~~(e) Transportation for picking up prescriptions is not covered unless en route to or from a medical appointment.~~

~~(f) The Department will not provide non-emergency medical transportation to nursing home residents because the nursing home must provide the transportation as part of its contracted rate.~~

~~(g) The Department will not provide non-emergency medical transportation to and from mental health appointments for recipients covered by a prepaid Mental Health Plan because the prepaid Mental Health Plan must provide transportation, as part of its contracted rate, to recipients to obtain covered mental health services.~~

~~(h) If medical services are not available in-state, a Traditional Medicaid recipient must receive prior authorization from the Department for the services and the transportation. If the services and the transportation are approved, the Department shall determine, at its discretion, the most cost effective and appropriate transportation, and method of payment for the transportation.~~

~~(3) If personal transportation is used and it is the most reasonable and economical mode of transportation available, the local office shall reimburse actual mileage at the rate of \$0.18 per mile. The Department may deny reimbursement for multiple trips in a day unless the client can demonstrate why multiple trips were necessary. Total reimbursement for mileage must not exceed \$150.00 a month per household, unless:~~

~~(a) an eligibility worker determines that higher reimbursement is necessary because a recipient's medical condition requires frequent travel to a Medicaid provider to obtain Medicaid-covered services that are medically necessary; or~~

~~(b) an eligibility worker or supervisor determines that higher reimbursement is necessary because a recipient had an unusual medical need in a given month that required frequent or long-distance travel to a Medicaid provider to obtain Medicaid-covered services that were medically necessary.~~

~~(4) The local office supervisor can authorize advance payment for use of personal transportation, overnight stay costs, or both, if the provider verifies the medical appointment, and the client would be unable to obtain the necessary medical services without an advance. The recipient is responsible to repay an advance if the recipient does not provide verification of travel expenses equal to or greater than the amount of funds advanced within 10 days after returning from the scheduled appointment.~~

~~(5) Transportation reimbursement for use of a personal vehicle may be made to the recipient, to a second party, or to the recipient and second party jointly.~~

~~(6) If two or more Traditional Medicaid recipients travel together in a personal vehicle, reimbursement shall be made to only one recipient, or to the driver, and only for the actual miles traveled.~~

~~(7) If medical services are not available locally, a Traditional Medicaid recipient may be reimbursed for transportation to obtain medical services outside of the recipient's local area. If the closest medical provider is out-of-state, a recipient may be reimbursed for transportation to the out-of-state provider if this travel is more cost effective than traveling to an in-state provider. The medical provider's office must verify that the recipient needs to travel outside the local area for medical services, unless:~~

~~(a) there are no Medicaid providers in the local area who can provide the services; or~~

~~(b) it is the custom in the local area to obtain medical services outside the local area or in neighboring states.~~

~~(8) A Traditional Medicaid recipient who receives medical treatment outside of the recipient's local area may receive reimbursement for lodging costs when staying overnight, if:~~

~~(a) the recipient is obtaining a Medicaid covered service that is medically necessary from the nearest Medicaid provider that can treat the recipient's medical condition; and~~

~~(b) the recipient must travel over 100 miles to obtain the medical treatment and would not arrive home before 8:00 p.m. due to the drive time;~~

~~(c) the recipient must travel over 100 miles to obtain the medical treatment and would have to leave home before 6:30 a.m. due to drive time to arrive at the scheduled appointment; or~~

~~(d) the medical treatment requires an overnight stay.~~

~~(9) The Department shall reimburse actual lodging and food costs or \$50 per night, whichever is less. Reimbursement for food costs shall be no more than \$25 of the \$50 overnight reimbursement rate.~~

~~(10) If a recipient has a medical need to stay more than two nights to receive medical services, the recipient must obtain approval from the Department before expenses for additional nights can be reimbursed.~~

~~(11) If a recipient has a medical need for a companion or attendant when traveling outside of the recipient's local area, and the recipient is not staying in a medical facility, lodging costs for the companion or attendant may be reimbursed according to the rate specified in Subsection R414-306-5(9). The reimbursement may also include salary if the attendant is not a member of the recipient's family, but not for standby time. One parent or guardian may qualify as an attendant if the parent or guardian must receive medical instructions to meet the recipient's needs, or the recipient is a minor child.~~

~~(12) Reimbursements for personal transportation shall not be made for trips made more than 12 months before the month the client requests reimbursement, with one exception. If a client is granted coverage for months more than one year prior to the eligibility decision, the client may request reimbursement and provide verification for personal transportation costs incurred during those months. In this case, the client must make the request and provide verification within three months after receiving the eligibility decision.~~

~~(13) Reimbursement for fee-for-service providers:~~

~~(a) Payments for Medical transportation are based on the established fee schedule unless a lower amount is billed. The amount billed cannot exceed usual and customary charges to private pay patients.~~

~~(b) Fees are established using the methodology described in the Utah Medicaid State Plan, Attachment 4.19-B Section R, Transportation.~~

~~(14) Medical Transportation under a Section 1915(b) waiver using a transportation contractor:~~

~~(a) Non-emergency medical transportation will be provided by a contracted transportation provider. The contractor provides non-emergency medical transportation services statewide, either as the primary provider or through a subcontractor. Transportation service under the waiver do not include bus passes and paratransit services by a public carrier, such as Flextrans.~~

~~(b) Prior authorization is required for all transportation services provided through the contractor.~~

~~(c) If the medical service is not available within the state, or the nearest Medicaid provider is outside the state, medical transportation to services outside of Utah is covered up to 120 ground travel miles one-way outside of the Utah border. The ride must originate or end within Utah borders. Non-emergency transportation originating and ending outside of Utah is not covered.~~

~~(d) A recipient is not eligible for non-emergency medical transportation services if the recipient owns a licensed vehicle or lives in a residence with a family member who owns a licensed vehicle, unless a physician verifies that the nature of the recipient's medical condition or disability makes driving inadvisable and there is no family member physically able to drive the recipient to and from medical appointments.~~

~~(e) A recipient is not eligible for non-emergency medical transportation services if public transportation is available in the recipient's area, unless the public transportation is inappropriate for the recipient's medical or mental condition as certified by a physician.~~

~~(f) A recipient is not eligible for non-emergency medical transportation services if paratransit services such as Flextrans are available in the recipient's area, unless the recipient's medical condition requires door to door services due to physical inability to get from the curb or parking lot to the medical provider's facility. This inability must be certified by a physician. To be eligible for transportation under the waiver, the recipient must receive a denial of services letter from Flextrans or other paratransit services.~~

~~(g) Transportation for urgent care services is provided under the provisions of items (d), (e) and (f) above and will be provided within 24 hours of request. Urgent care is defined as non-emergency medical care which is considered by the prudent lay person as medically safe to wait for medical attention within the next 24 hours.~~

KEY: effective date, program benefits, medical transportation
Date of Enactment or Last Substantive Amendment: [November 1, 2010]2014

Notice of Continuation: January 23, 2013

Authorizing, and Implemented or Interpreted Law: 26-18

**Health, Health Care Financing,
 Coverage and Reimbursement Policy
 R414-503
 Preadmission Screening and Resident
 Review**

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 38141

FILED: 11/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to update and clarify preadmission screening and resident review (PASRR) policy, and to implement the current policy by rule.

SUMMARY OF THE RULE OR CHANGE: All requirements of the repealed rule are reenacted in the proposed rule. The new rule also includes more detail on the eligibility requirements for "short-term stay" in a Medicare and Medicaid-certified nursing facility.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Pub. L. No. 104-315 and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no impact to the state budget because this change only updates ongoing PASRR policy for Medicaid recipients.

◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they do not fund or provide Medicaid services to Medicaid recipients.

◆ **SMALL BUSINESSES:** There is no impact to small businesses because this change only updates ongoing PASRR policy for Medicaid recipients.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers and to Medicaid recipients because this change only updates ongoing PASRR policy for Medicaid recipients.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no impact to a single Medicaid provider or to a Medicaid recipient because this change only updates ongoing PASRR policy for Medicaid recipients.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change simply codifies current practice so there will be no impact on business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
 HEALTH CARE FINANCING,
 COVERAGE AND REIMBURSEMENT POLICY
 CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY, UT 84116-3231
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-503. Preadmission Screening and Resident Review.

[R414-503-1. Introduction and Authority.]

This rule implements 42 U.S.C. 1396r(b)(3) and (c)(7) and Pub. L. No. 104-315, which require preadmission screening and resident review (PASRR) of nursing facility residents with serious mental illness or intellectual disability. This rule applies to all Medicare and Medicaid-certified nursing facility admissions irrespective of the payment source of an individual's nursing facility services.

R414-503-2. Definitions.

In addition to the definitions in Sections R414-1-2 and R414-501-2, the following definitions apply:

(1) "Break in Stay" means an individual voluntarily leaves a Medicare and Medicaid-certified nursing facility or discharges from a hospital into a community placement.

(2) "Intellectual Disability" is the equivalent term for "Mental Retardation" in federal law.

R414-503-3. Preadmission Level I Screening for All Persons.

The purpose of a Preadmission Level I Screening is for a health care professional to identify any person with a serious mental illness, intellectual disability or other related condition so the professional may consider that person for admission to a Medicare and Medicaid-certified nursing facility. The health care professional who conducts the Level I Screening shall refer the person for a Level II Evaluation if the professional determines that the person has a serious mental illness, intellectual disability or other related condition:

(1) The health care professional shall complete a Level I Screening before any Medicare and Medicaid-certified nursing facility admission.

(2) The health care professional shall complete the Level I Screening on a form supplied by the Department.

(3) The health care professional shall sign and date the Level I Screening.

R414-503-4. Level II Evaluation Criteria.

(1) The Department requires a Level II Evaluation for serious mental illness if the person meets all of the following criteria:

(a) The person has a serious mental illness as defined by the State Mental Health Authority and identified by the Level I Screening;

(b) The diagnosis of mental illness falls within the diagnostic groupings as described in the current version of the Diagnostic and Statistical Manual;

(c) The person has experienced a functional limitation in a major life activity within the last six months that results in serious difficulty in interpersonal functioning, concentration or persistence, adaptation to change, and the serious mental illness is the cause of the limitation; and

(d) In addition to the criteria listed in Subsection R414-503-4(1)(a)(b)(c), the person meets any one of the following criteria:

(i) The person has undergone psychiatric treatment at least twice in the last two years that is more intensive than outpatient care;

(ii) Due to a significant disruption in the person's normal living situation, the person has required supportive services to maintain the current level of functioning at home or in a residential treatment center; or

(iii) The person has required intervention by housing or law enforcement officials.

(2) The Department requires a Level II Evaluation for a person who meets at least one of the following criteria:

(a) The person has received a diagnosis of an intellectual disability or related condition;

(b) The person has received a diagnosis of epilepsy or seizure disorder with onset before 22 years of age, and has a current prescription for anti-seizure medication for epilepsy;

(c) The person has a history of intellectual disability or related condition, or an indication of cognitive or behavioral patterns that indicate the person has an intellectual disability or related condition; or

(d) The person is referred by any agency that specializes in the care of persons with intellectual disabilities or related conditions.

(3) The nursing facility shall refer the person to a local mental health PASRR Evaluator for the Level II Evaluation if the Level I Screening indicates the person meets any of the criteria listed in Subsection R414-503-4(1). The nursing facility shall also provide the notice of referral to the person, his legal representative, and the prospective nursing facility.

(4) The nursing facility shall refer the person to the Intellectual Disability or Related Condition Authority for the Level II Evaluation if the Level I Screening indicates the person meets any of the criteria listed in Subsection R414-503-4(2). The nursing facility shall also provide the notice of referral to the person, his legal representative, and the prospective nursing facility.

(5) The nursing facility shall refer the person to both the local mental health PASRR Evaluator and the Intellectual Disability or Related Condition Authority if the person meets the criteria for Subsection R414-503-4(1) and (2).

(6) If the person does not meet the criteria in Subsection 414-503-4(1) or (2), the Department may not require a further PASRR Evaluation unless there is a significant change in condition.

(a) The nursing facility shall submit a copy of the Level I Screening to the Department upon the person's admission. The nursing facility shall also retain a copy of the Level I Screening in the person's medical record.

(b) The nursing facility shall initiate a new or revised Level I Screening if there is a significant change in the person's condition.

(7) The Department may not require further PASRR Screening if the health care professional who conducts the Level I

Screening determines that the person has a primary diagnosis of dementia that includes Alzheimer's disease:

(a) The nursing facility shall submit a copy of the Level I Screening to the Department upon the person's admission. The nursing facility shall also retain a copy of the Level I Screening in the person's medical record.

(8) The Department shall require Level I Screening for all persons even if a person cannot cooperate or participate in Level I Screening due to delirium or other emergency circumstances. The health care professional shall complete the Level I Screening by using available medical information or other outside information.

R414-503-5. Preadmission Level II Evaluation.

The Department shall base Level II Evaluations on the criteria set forth in 42 CFR 483.130 and shall address the level of nursing services, specialized services, and specialized rehabilitative services needed:

(1) The purpose of a Level II Evaluation is:

(a) to avoid unnecessary or inappropriate institutionalization of persons with serious mental illness or intellectual disabilities or related conditions; and

(2) to ensure that persons with serious mental illness or intellectual disabilities or related conditions receive mental health treatment or are referred for specialized services:

(a) Specialized services shall include:

(i) acute inpatient psychiatric care for persons with mental illness; and

(ii) the provision of additional services to persons with intellectual disabilities or related conditions who are admitted to nursing facilities.

(3) The Department shall require a referral for a Level II Evaluation if a Level I Screening indicates the person may have a serious mental illness or an intellectual disability or related condition.

(4) The Department may not require a Level II Evaluation if:

(a) the person does not meet the criteria listed in Subsection R414-503-4 (1) or (2);

(b) the nursing facility admits the person due to delirium or an emergency situation and an accurate diagnosis cannot be made until the delirium clears; and

(c) the nursing facility placement does not exceed seven days.

(i) The nursing facility shall refer the person for a Level II Evaluation before midnight on the seventh day if the placement exceeds seven days.

(d) The Department may not require a Level II Evaluation if the person has a previous Level II Evaluation and the nursing facility readmits the person to the same or a different nursing facility following hospitalization for medical care without a break in stay. This provision, however, does not apply if the person is hospitalized for psychiatric care.

(i) Following readmission, the nursing facility shall review and update the PASRR Level I Screening to determine whether there is a significant change in condition that requires a Level II Evaluation.

(e) The Department may not require a Level II Evaluation if the person has a previous Level II Evaluation and the nursing facility transfers the person to another nursing facility with or without intervening hospitalization and without a break in stay. This provision,

however, does not apply if the person is hospitalized for psychiatric care:

(i) Following transfer, the nursing facility shall review and update the Level I Screening to determine whether there is a significant change in condition that requires a Level II Re-Evaluation.

(f) The Department may not require a Level II Evaluation if the person is admitted to a nursing facility directly from a hospital and requires nursing facility services for the condition treated in the hospital (not psychiatric treatment), and the attending physician certifies in writing before the admission that the person is likely to be discharged in less than 30 days.

(i) The nursing facility shall refer the person for a Level II Evaluation before midnight on the 30th day.

(g) The Department may not require a Level II Evaluation if the person is admitted to a nursing facility for no more than 14 days to provide respite to in-home care givers and the person is expected to return to the in-home care givers after the respite period.

(i) The nursing facility shall refer the person for a Level II Evaluation before midnight on the fourteenth day if the placement exceeds 14 days.

(5) The Level II Evaluator shall evaluate the person and make one of the following determinations:

(a) The Level II Evaluator shall determine whether the person does not need nursing facility services. This determination disqualifies the person from nursing facility placement and the Department shall deny reimbursement from the date of the evaluator's finding.

(b) The Level II Evaluator shall determine whether the person does not need nursing facility services but does need specialized services as defined by the State Mental Health or Intellectual Disability or Related Condition Authority. This determination disqualifies the person from nursing facility placement, and the Department shall deny reimbursement from the date of the evaluator's finding.

(c) The Level II Evaluator shall determine whether the person needs nursing facility services but not specialized services. This determination qualifies the person nursing facility placement.

(d) The Level II Evaluator shall determine whether the person should be released from a hospital setting for a medically-prescribed period of convalescent care in a nursing facility. This determination qualifies the person for nursing facility placement for a maximum period of 120 days.

(i) If the person is expected to remain in a nursing facility for more than 120 days, the nursing facility shall refer the person for another Level II Evaluation before midnight on the 120th day.

(e) The Level II Evaluator shall determine whether the person requires short-term, medically prescribed care in a nursing facility. This determination qualifies the person for nursing facility placement for the number of days specified by the State Mental Health Authority and cannot exceed 120 days.

(i) The nursing facility shall refer the person for another Level II Evaluation before the end of the number of days specified if the person is expected to remain in a nursing facility for more than the number of days specified by the State Mental Health Authority.

(f) The Level II Evaluator shall determine whether the person is certified by a physician to be terminally ill with a medical prognosis of less than six months to live, and shall also determine whether the person requires continuous nursing care or medical

~~supervision or treatment due to a physical condition. The nature and extent of the person's need for nursing care, medical supervision, or treatment shall be the primary consideration. This determination qualifies the person for nursing facility placement and no further Level II Evaluation is needed unless there is a significant change of condition.~~

~~(g) The Level II Evaluator shall determine whether the person has a severe physical illness and as a result of the severe physical illness is not expected to benefit from mental health or intellectual disability or related condition services. This determination qualifies the person for nursing facility placement and no further Level II Evaluation is needed unless there is a significant change of condition.~~

~~(6) If at any time during the Level II Evaluation, the local PASRR Evaluator or the Intellectual Disability of Related Condition Authority determines that the person does not have a serious mental illness, an intellectual disability or related condition, or dementia the evaluator may terminate the evaluation. The evaluator shall document that the person does not have a serious mental illness, an intellectual disability or related condition, or dementia in accordance with State Mental Health and Intellectual Disabilities or Related Conditions Authority.~~

~~(7) The State Mental Health Authority or the Intellectual Disabilities or Related Conditions Authority shall provide a copy of the Level II Evaluation and findings to the following:~~

~~(a) The person evaluated;~~
~~(b) The person's legal representative, if any; and~~
~~(c) The nursing facility for retention in the person's medical record, if the person is admitted.~~

~~(8) Out-of-State Arrangement for Payment: The state in which the person is a resident (or would be a resident at the time he becomes eligible for Medicaid) as defined in 42 CFR 435.403 shall pay for the Level II Evaluation in accordance with 42 CFR 431.52(b).~~

~~(9) The nursing facility, in consultation with the person and his legal representative, shall arrange for a safe and orderly discharge from the nursing facility, and shall assist with linking the person to supportive services and preparing the person for discharge when a Level II Evaluation disqualifies a person or concludes that a person is no longer eligible for nursing facility placement.~~

~~R414-503-6. Penalties.~~

~~The Department shall deny reimbursement for each day that a person remains admitted in a nursing facility past the specified dates and times if the nursing facility fails to comply with the procedures and timelines set forth in Sections R414-503-3 through R414-503-5.]~~

~~R414-503-1. Introduction and Authority.~~

~~This rule implements 42 U.S.C. 1396r(b)(3) and (e)(7) and Pub. L. No. 104 315, which require preadmission screening and resident review (PASRR) of nursing facility residents with serious mental illness or intellectual disability. This rule applies to all Medicare/Medicaid-certified nursing facility admissions irrespective of the payment source of an individual's nursing facility services.~~

~~R414-503-2. Definitions.~~

~~In addition to the definitions in Section R414-1-2 and Section R414-501-2, the following definitions apply:~~

~~(1) "Break in Stay" occurs when a resident of a Medicare/Medicaid-certified nursing facility:~~

~~(a) voluntarily leaves against medical advice for more than two consecutive days;~~

~~(b) fails to return within two consecutive days after an authorized leave of absence;~~

~~(c) discharges into a community setting; or 251658240~~

~~(d) is admitted to the Utah State Hospital, to a civil or forensic bed (not the Adult Recovery Treatment Center).~~

~~(2) "Intellectual Disability" is the equivalent term for "Mental Retardation" in federal law.~~

~~R414-503-3. PASRR Level I Screening for All Persons.~~

~~The purpose of a PASRR Level I Screening is for a health care professional to identify any person with a serious mental illness, intellectual disability or other related condition so the professional may consider that person for admission to a Medicare/Medicaid-certified nursing facility. The health care professional who conducts the Level I Screening shall refer the person for a Level II Evaluation if the professional determines that the person has a serious mental illness, intellectual disability or other related condition.~~

~~(1) The health care professional shall complete a Level I Screening before any Medicare/Medicaid-certified nursing facility admission.~~

~~(2) The health care professional shall complete the Level I Screening on a form supplied by the Department.~~

~~(3) The health care professional shall sign and date the Level I Screening.~~

~~(4) The nursing facility shall revise the Level I Screening if there is a significant change in the person's condition.~~

~~(5) The Department shall require Level I Screening for all persons even if a person cannot cooperate or participate in Level I Screening due to delirium or other emergency circumstances. The health care professional shall complete the Level I Screening by using available medical information or other outside information.~~

~~R414-503-4. PASRR Level II Evaluation Criteria.~~

~~The purpose of a Level II Evaluation is to avoid unnecessary or inappropriate nursing facility admission of persons with serious mental illness or intellectual disabilities or related conditions. The Level II evaluation ensures that persons with serious mental illness or intellectual disabilities or related conditions are recommended for specialized services when a health care professional determines there is a need for specialized services during the evaluation process. The Department bases Level II Evaluations on the criteria set forth in 42 CFR 483.130. Level II Evaluations must address the level of nursing services, specialized services, and specialized rehabilitative services needed for the patient.~~

~~(1) The health care professional who completes the Level I screening shall refer the person to a contracted mental health PASRR Evaluator for the Level II Evaluation if the Level I Screening indicates the person meets all of the following criteria:~~

~~(a) The person has a serious mental illness as defined by the State Mental Health Authority and identified by the Level I Screening;~~

~~(b) The diagnosis of mental illness falls within the diagnostic groupings as described in the Diagnostic and Statistical Manual; and~~

~~(c) In addition to the criteria listed in Subsection R414-503-4(1)(a)(b), the person meets any one of the following criteria:~~

~~(i) The person has undergone psychiatric treatment at least twice in the last two years that is more intensive than outpatient care;~~

(ii) Due to a significant disruption in the person's normal living situation, the person requires supportive services to maintain the current level of functioning at home or in a residential treatment center; or

(iii) The person requires intervention by housing or law enforcement officials.

(2) The health care professional who completes the Level I screening shall refer the person to the Intellectual Disability or Related Condition Authority for the Level II Evaluation if the Level I Screening indicates the person meets at least one of the following criteria:

(a) The person has received a diagnosis of an intellectual disability or related condition;

(b) The person has received a diagnosis of epilepsy or seizure disorder with onset before 22 years of age;

(c) The person has a history of intellectual disability or related condition, or an indication of cognitive or behavioral patterns that indicate the person has an intellectual disability or related condition; or

(d) The person is referred by any agency that specializes in the care of persons with intellectual disabilities or related conditions.

(3) The health care professional who completes the Level I screening shall refer the person to both the contracted mental health PASRR Evaluator and the Intellectual Disability or Related Condition Authority if the person meets the criteria for Subsection R414-503-4(1) and (2).

(4) The health care professional who completes the Level I screening shall provide written notice of a Level II Evaluation referral to the person, the person's legal representative, and the prospective nursing facility.

(5) If the person does not meet the criteria in Subsection R414-503-4(1) or (2), the Department may not require a further PASRR Evaluation unless there is a significant change in condition.

R414-503-5. PASRR Level II Exemptions.

The Department may not require a Level II Evaluation for any of the following reasons:

(1) The person does not meet the criteria listed in Subsection R414-503-4 (1) or (2);

(2) The nursing facility admits the person as a provisional admission due to delirium, an accurate diagnosis cannot be made until the delirium clears, and the nursing facility placement does not exceed seven days. The nursing facility shall refer the person for a Level II Evaluation before midnight on the seventh day if the placement will extend beyond the seventh day.

(3) The nursing facility admits the person as a provisional admission due to an emergency situation requiring protective services, and the nursing facility placement does not exceed seven days. The nursing facility shall refer the person for a Level II Evaluation before midnight on the seventh day if the placement will extend beyond the seventh day.

(4) The person is admitted to a nursing facility directly from a hospital and requires nursing facility services for the condition treated in the hospital (not psychiatric treatment), and the attending physician certifies in writing before the admission that the person is likely to be discharged in less than 30 days. The nursing facility shall refer the person for a Level II Evaluation before midnight on the 30th day if the placement will extend beyond the 30th day.

(5) The contracted mental health PASRR evaluator may terminate the Level II Evaluation at any time if the evaluator determines that the person does not have a serious mental illness. The Level II Evaluator shall document that the person does not have a serious mental illness.

(6) The person has a previous Level II Evaluation and the nursing facility readmits the person to the same or a different nursing facility following hospitalization for medical care without a break in stay. This provision does not apply if the person is hospitalized for acute psychiatric treatment. Following readmission, the nursing facility shall review and update the PASRR Level I Screening to determine whether there is a significant change in condition that requires a Level II Re-evaluation.

(7) The person has a previous Level II Evaluation and the nursing facility transfers the person to another nursing facility with or without intervening hospitalization and without a break in stay. This provision does not apply if the person is hospitalized for psychiatric treatment. Following transfer, the nursing facility shall review and update the Level I Screening to determine whether there is a significant change in condition that requires a Level II Re-evaluation.

R414-503-6. PASRR Level II Categorical Determinations.

The Level II Evaluator may make one of the following categorical determinations:

(1) Convalescent Care - The person is eligible for convalescent care for an acute physical illness that requires hospitalization and does not meet the criteria for an exempt hospital discharge, (which, as specified in 42 CFR 483.106(b)(2) is not subject to preadmission screening). The convalescent care determination only applies if the person is at a hospital for a medical condition and is going to the Medicare/Medicaid-certified nursing facility for the same medical condition. The Convalescent Care Categorical Determination is valid for up to 120 days. The nursing facility shall refer the person for a Level II Evaluation before midnight on the 120th day if the placement will extend beyond the 120th day.

(2) Short-term Stay - The person is eligible for a short-term stay for an acute physical illness in which the person is seeking admission to the nursing facility directly from a community setting. The Short-term Stay Categorical Determination is valid for a maximum of 120 days. The nursing facility shall refer the person for a Level II Evaluation before the end of the number of days specified if the placement will extend beyond the number of days specified by the State Mental Health Authority or Intellectual Disabilities Authority.

(3) Terminal Illness - The person is eligible for a stay related to a terminal illness when a physician provides a written statement that the person has a terminal illness. If the individual is not receiving hospice services at the time of the Level II Evaluation, an individualized Level II Evaluation is required.

(4) Severe Physical Illness - The person is eligible for a Severe Physical Illness Categorical Determination when the person has a level of impairment so severe that the individual cannot be expected to benefit from specialized services. This level of impairment includes conditions such as: (a) being in a coma;

(b) being ventilator dependent; or

(c) functioning at a brain stem level.

(5) Dementia and Intellectual Disability - The State Intellectual Disability Authority or delegated agency (not Level I screeners) may make categorical determinations that individuals with

dementia, which exists in combination with intellectual disability or a related condition, do not need specialized services.

(6) Dementia and Mental Illness -The health care professional may terminate the PASRR Level II Evaluation if the health care professional discovers that the person has dementia and a serious mental illness during the evaluation process, and there is evidence that dementia is the primary condition. For example, the dementia has resulted in increased functional deficits and is the primary reason for requiring nursing facility services.

R414-503-7. Individualized Level II Determinations.

The Level II Evaluator may make one of the following individualized determinations:

(1) The person does not need nursing facility services. This determination disqualifies the person from admission to a Medicare/Medicaid-certified nursing facility.

(2) The person does not need nursing facility services but does need specialized services as defined by the State Mental Health Authority or Intellectual Disability or Related Condition Authority. This determination disqualifies the person from admission to a Medicare/Medicaid-certified nursing facility.

(3) The person needs nursing facility services but not specialized services. This determination qualifies the person for admission to a Medicare/Medicaid-certified nursing facility.

(4) The person needs nursing facility services and requires specialized services. The Level II Evaluation will specify the specialized services that are needed. This determination qualifies the person for admission to a Medicare/Medicaid-certified nursing facility. The State Mental Health Authority or the Intellectual Disabilities or Related Conditions Authority shall provide a copy of the Level II Evaluation and findings to the person, the person's legal representative, the nursing facility, and the attending physician.

(5) Out-of-State Arrangement for Payment: The state in which the person is a resident (or would be a resident at the time the person becomes eligible for Medicaid) as defined in 42 CFR 435.403 shall pay for the Level II Evaluation in accordance with 42 CFR 431.52(b).

(6) The nursing facility, in consultation with the person and his legal representative, shall arrange for a safe and orderly discharge from the nursing facility, and shall assist with linking the person to supportive services and preparing the person for discharge if the person no longer meets the medical criteria for nursing facility services, or a Level II Evaluation disqualifies the person as no longer eligible for nursing facility placement.

R414-503-8. Penalties.

A nursing facility may not admit a patient until the health care professional completes the PASRR Level I Screening, and if necessary, the PASRR Level II Evaluation and Determination, finding that the patient is eligible for nursing facility services. The Department may not reimburse a nursing facility for any days in which the facility admits a patient before completion of the PASRR process.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: [July 18, 2012]2014

Notice of Continuation: August 20, 2009

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3[;63G-3-304]

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-511
Medicaid Accountable Care
Organization Incentives to
Appropriately Use Emergency Room
Services**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 38103

FILED: 11/06/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to comply with provisions of H.B. 141, 2013 General Legislative Session, which require the Department to establish incentives for the appropriate use of emergency room services in the Medicaid program.

SUMMARY OF THE RULE OR CHANGE: This amendment establishes incentives for the appropriate use of emergency room services in the Medicaid program.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 U.S.C. 1395dd(e) and Section 26-1-5 and Section 26-18-3 and Section 26-18-408

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no impact to the state budget because Accountable Care Organizations (ACOs) are not required to take effective action based on this legislation until 07/01/2015.

♦ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund nor provide Medicaid services to Medicaid recipients.

♦ **SMALL BUSINESSES:** There is no impact to small businesses because ACOs are not required to take effective action based on this legislation until 07/01/2015.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to ACOs, Medicaid providers and to Medicaid recipients because ACOs are not required to take effective action based on this legislation until 07/01/2015.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no impact to a single ACO, a single Medicaid provider or to a Medicaid recipient because ACOs are not required to take effective action based on this legislation until 07/01/2015.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no effect on business. The implementation will be done over several years.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
HEALTH CARE FINANCING,
COVERAGE AND REIMBURSEMENT POLICY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-511. Medicaid Accountable Care Organization Incentives to Appropriately Use Emergency Room Services.

R414-511-1. Introduction and Authority.

(1) This rule is established under the authority of Section 26-18-408.

(2) The purpose of this rule is to establish provisions governing Accountable Care Organization (ACO) accountable performance measures for the reduction of non-emergent use of emergency departments by Medicaid beneficiaries.

R414-511-2. Definitions.

(1) "Non-emergent medical condition" means a medical condition that does not meet the criteria of an emergency medical condition under 42 U.S.C. 1395dd (e) of the Emergency Medical Treatment and Active Labor Act.

(2) "Non-emergent medical care" means:

(a) Medical care provided in an emergency room for the treatment of a non-emergent medical condition.

(3) "Non-emergent medical care" does not mean:

(a) Medical services necessary to conduct a medical screening examination to determine if the Medicaid beneficiary has an emergent or non-emergent medical condition; and

(b) Medical care provided to a Medicaid beneficiary who, using a prudent layperson standard, reasonably believes he is experiencing an "emergency medical condition" as defined by 42 U.S.C. 1395dd(e) of the Emergency Medical Treatment and Active Labor Act.

(4) "Medicaid Beneficiary" means a person who enrolls in an ACO in accordance with the Department's "Choice of Health Care Delivery Program" (CHCDP) freedom-of-choice waiver under Section 1915(b) of the Social Security Act.

R414-511-3. Performance Measures.

(1) An ACO that contracts with the Department to provide services to Medicaid beneficiaries shall report the following information to the Department in accordance with the terms of its contract:

(a) Emergency room visits with low acuity CPT codes 99281 or 99282;

(b) Actions the ACO takes to expand primary care and urgent care for Medicaid beneficiaries who are enrolled in the Accountable Care Plan;

(c) Actions the ACO takes to implement emergency room diversion plans that include: (i) Weekday evening and weekend access to primary care providers and community health centers for Medicaid beneficiaries and

(ii) Other innovations for expanding access to primary care.

(d) Other quality of care for Medicaid beneficiaries who are enrolled in an ACO as required by the Department.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: 2014

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3; 26-18-408

Health, Center for Health Data, Health
Care Statistics

R428-15

Health Data Authority Health Insurance
Claims Reporting

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 38144

FILED: 11/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to incorporate by reference the technical specification documents (current and revised) and simplify applicable sections where necessary. Procedures outlining how carriers can submit exemptions and extensions have been added. Several references to statutes have been updated for accuracy purposes. New deadlines have been added to the "Testing of Files" section.

SUMMARY OF THE RULE OR CHANGE: New rule sections and corrections provide more clarity to Rule R428-15. Edits

reflect a change in business practice for the All Payer Claims Database. Technical specifications are now incorporated by reference.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 33a

MATERIALS INCORPORATED BY REFERENCES:

- ◆ Adds Technical Specifications and Data Submission Procedures for the State of Utah All Payer Database Version 1.3, published by Utah Department of Health, Health Data Committee, 09/13/2009
- ◆ Adds Utah All-Payer Claims Database Data Submission Guide Version 2.0, published by Utah Department of Health, Health Data Committee, 11/12/2013

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This rule amendment clarifies the extension and extension process, incorporates by reference both data submittal manuals (current and revised), as well as makes technical changes for consistency. The Utah Department of Health (UDOH) determines that these changes will not create any cost or savings impact to the state budget or UDOH's budget, since the changes will not increase workload and can be carried out with existing budget.
- ◆ **LOCAL GOVERNMENTS:** This filing does not create any direct cost or savings impact to local governments since they are not directly affected by the rule; nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.
- ◆ **SMALL BUSINESSES:** None--Small businesses are not impacted by this rule change, with all potentially impacted having more than 50 employees. As a result, the rule will have no effect on small business budgets for costs or savings.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Moving away from the required 837 submissions for medical claims may reduce processing burden on data submitters and thereby achieve cost savings. These changes to Rule R428-15 are needed to support important health care reform initiatives in Utah. Overall cost to the health carrier industry, specifically to those currently required to comply with Rule R428-15, will total approximately \$2,376,000 (24 carriers x \$99,000). See individual information in the "Compliance costs for affected persons."

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule amendment includes the addition of a new Data Submittal Guide enforced as of 05/15/2014. Data submitters will need to comply with this Guide by developing and implementing changes to their data systems. This will increase the submitter's budget and workload, depending on how many modifications need to be made for compliance. One-time costs are estimated to be between \$74,250 to

\$123,750 per data submitter to comply with changes to Rule R428-15, which may not include all necessary staff. This range is based on an estimated amount of \$99,000 per submitter for two and 3/4 FTEs at \$132,000, working approximately six months per Utah DTS guidelines. Once the submitter makes these changes, there should be no additional ongoing costs above those incurred before the transition.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I approve of Rule R432-15 for publication. The impact on the affected businesses is substantial but necessary for the successful operation of the All Payer Claims Database and will benefit those businesses over time.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH
CENTER FOR HEALTH DATA,
HEALTH CARE STATISTICS
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Mike Martin by phone at 801-538-9205, by FAX at 801-538-9916, or by Internet E-mail at mikemartin@utah.gov
- ◆ Rex Olsen by phone at 801-538-9498, by FAX at 801-536-0940, or by Internet E-mail at rolsen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

- ◆ 12/09/2013 09:30 AM, Utah Department of Health, Cannon Health Building, 288 N 1460 W, Room 125, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2014

AUTHORIZED BY: David Patton, PhD, Executive Director

**R428. Health, Center for Health Data, Health Care Statistics.
R428-15. Health Data Authority Health Insurance Claims Reporting.**

R428-15-1. Legal Authority.

This rule is promulgated under authority granted in Utah Code Title 26, Chapter 33a and in accordance with the Utah Health Data Plan as adopted in R428-1.

R428-15-2. Purpose.

This rule establishes requirements for certain entities that pay for health care to submit data to the Utah Department of Health.

R428-15-3. Definitions.

These definitions apply to rule R428-15, in addition:

(1) "Committee" means the Utah Health Data Committee as defined in 26-33a-102.

(~~1~~2) "Office" means the Office of Health Care Statistics within the Utah Department of Health, which serves as staff to the Utah Health Data Committee.

(~~2~~3) "Carrier" means:

(a) a commercial insurance company engaged in the business of health care insurance in the state of Utah, as defined in 31A-1-301(~~74~~), including a business under an administrative services organization or administrative services contract arrangement;

(b) a third party administrator, as defined in 31A-1-301(~~459~~), licensed by the state of Utah that collects premiums or settles claims of residents of the state, for health care insurance policies or health benefit plans, as defined in 31A-1-301;~~[(448)]~~

(c) a governmental plan as defined in Section 414 (d), Internal Revenue Code;

(d) a non-electing church plan as described in Section 410 (d), Internal Revenue Code;

(e) a licensed professional employer organization acting as an administrator of a health care insurance policy~~[-or health benefit plan funded by a self-insurance arrangement];[-or]~~

(f) a health benefit plan funded by a self-insurance arrangement; or

(~~f~~g) a dental stand-alone company as defined in 31A-8-101(~~6~~).

(~~3~~4) "Claim" means a request or demand on a carrier for payment of a benefit.

(~~4~~5) "Health care claims data" means information consisting of, or derived directly from, member enrollment, medical claims, and pharmacy claims that this rule requires a carrier to report.

(6) "Adjudicated claim" means a claim submitted to a carrier for payment where the carrier has made a determination whether the services provided fall under the carrier's benefit.

(~~5~~7) "Health Insurance" has the same meaning as found in Subsection 31A-1-301.

(~~6~~8) "Technical specifications" means the Technical Specifications and Data Submission Procedures for the State of Utah All Payer Database Version 1.3 for data submissions required prior to May 15, 2014 and the Utah All-Payer Claims Database Data Submission Guide Version 2 for data submissions beginning May 15, 2014. Both documents are adopted and incorporated by reference~~[technical specifications document published by the Health Data Committee describing the variables and formats of the data that are to be submitted as well as submission directions and guidelines].~~

R428-15-4. Reporting Requirements.

(1) Each carrier shall submit health care claims data described in the technical specifications for each covered person~~[enrollment, medical claims, and pharmacy data described in R428-15-6] where Utah is the covered person's~~~~[patient's] primary residence, regardless of where the services are provided~~~~[-and enrollment, medical claims, and pharmacy data for services provided out of state to Utah residents].~~

(2) Each carrier shall submit data for all fields contained in the technical specifications if the data are available to the carrier. Each carrier shall notify the Office or its designee of any data elements that are required to be reported under this rule, but that are not available to the carrier.

(3) Each carrier shall submit the health care claims data on a~~[begin submitting the required data to the office no later than October 17, 2009. The initial data submission must be completed by November 15, 2009. The initial data submission shall be for claims incurred from January 1, 2007 through December 31, 2008 and which are paid through September 30, 2009. Thereafter, each carrier shall submit monthly health care claims data. Each] monthly basis~~~~[submission is due no later than the last day of the following month].~~

(4) Each monthly submission is due no later than the last day of the month following the month in which the carrier adjudicated the claim.

R428-15-5. Reporting Process.

(1) Submission procedures and guidelines are described in detail in the technical specifications~~[-published by the Health Data Committee. The health care claims data shall be either X12-format, or flat text files formatted according to the technical specifications-~~

(2) ~~All medical claims shall be submitted to the Office through the Utah Health Information Network (UHIN) in X12-format.~~

(3) ~~All enrollment and pharmacy data files shall be submitted to the Office in flat text files using either UHIN or FTP Secure].~~

R428-15-6. [Required Data Elements.

(1) ~~The enrollment, medical claims, and pharmacy data elements are described in detail in the technical specifications published by the Health Data Committee. Each carrier shall submit data for all fields contained in the submission specifications if the data are available to the carrier.~~

(a) ~~Each carrier must submit enrollment files as a flat file.~~

(b) ~~Each carrier must submit medical claims as X12 messages as modified by this rule. All X12 format messages must contain all the necessary segments for processing through UHIN. This includes ISA/IEA segments, GS and GE segments, Segment Qualifier codes, etc., as specified in the X12 implementation guides. If a segment or qualifier is required for X12 format, it is required for all submissions under this rule. If a segment or qualifier is not required for X12 format, but is required by this rule, it must be submitted as required by this rule. Submitted files must be in the ASC X12 4010A1 x098 for a Professional Claim and in the ASC X12 4010A1 x096 for an Institutional claim.~~

(c) ~~Each carrier must submit pharmacy claims as a flat file.~~

(2) ~~Enrollment Files. Each carrier must submit the following data elements for each enrollment file:~~

- (a) ~~Record Type~~
- (b) ~~Transaction Code~~
- (c) ~~File Create Date~~
- (d) ~~Member ID~~
- (e) ~~Social Security Number~~

- ~~(f) Member's Relationship to Subscriber~~
~~(g) Last Name~~
~~(h) First Name~~
~~(i) Middle Name~~
~~(j) Sex~~
~~(k) Street~~
~~(l) City~~
~~(m) State~~
~~(n) Zip Code~~
~~(o) Primary Phone~~
~~(p) Birth date~~
~~(q) Race~~
~~(r) Ethnicity~~
~~(s) Primary/Secondary~~
~~(t) Designated Primary Care Physician~~
~~(u) PCP ID~~
~~(v) Healthplan Code~~
~~(w) Benefit Option Code~~
~~(x) Option Effective Date~~
~~(y) HP Termination Date~~
~~(z) Employer Group Code~~
~~(aa) Patient ID~~
~~(bb) Health Plan Description~~
~~(cc) Orig. HP Effective Date~~
~~(dd) Member Status.~~
~~(3) Professional Medical Claims. Each carrier must submit the following data elements for each professional medical claim:~~
- ~~(a) Data Element - Data Element Description~~
~~(b) BHT06 - BHT Beginning of Hierarchical Trans~~
~~(c) GS08 - Functional Group Header~~
~~(d) GS07 - Functional Group Header~~
~~(e) Submitter Information~~
~~(i) 1000A NM103 - Submitter Name~~
~~(ii) 1000A NM109 - Submitter Identifier~~
~~(iii) 1000A PER01-05 - Submitter EDI Contact Information~~
~~(f) 1000B NM103 - Receiver Name~~
~~(g) 1000B NM109 - Receiver Identifier~~
~~(h) Billing Provider~~
~~(i) 2010AA NM103 - Billing Provider Name~~
~~(ii) 2010AA NM109 - Billing Provider ID~~
~~(iii) 2010AA REF02 - Billing Provider Secondary ID~~
~~(i) 2000B SBR02 - Individual Relationship Code~~
~~(j) 2000B SBR03 - Insured Group or Policy Number~~
~~(k) 2010BB NM103 - Payer Name~~
~~(l) Subscriber Information~~
~~(i) 2010BA NM103 - Subscriber LName~~
~~(ii) 2010BA NM104 - Subscriber FName~~
~~(iii) 2010BA NM105 - Subscriber Middle Name~~
~~(iv) 2010BA NM109 - Subscriber Primary Identifier~~
~~(v) 2010BA N301 - Subscriber Address1~~
~~(vi) 2010BA N302 - Subscriber Address2~~
~~(vii) 2010BA N401 - Subscriber City Name~~
~~(viii) 2010BA N402 - Subscriber State~~
~~(ix) 2010BA N403 - Subscriber Zip Code~~
~~(x) 2010BA DMG20 - Subscriber Date of Birth~~
~~(xi) 2010BA DMG03 - Subscriber Sex~~
~~(xii) 2010BA REF01 - Subscriber Secondary ID Qualifier~~
~~(xiii) 2010BA REF02 - Subscriber Secondary ID~~
~~(m) Patient Information~~
~~(i) 2000C PAT01 - Patients Relationship to Insured~~
~~(ii) 2010CA NM103 - Patient LName~~
~~(iii) 2010CA NM104 - Patient FName~~
~~(iv) 2010CA NM105 - Patient Middle Name~~
~~(v) 2010CA NM109 - Patient Primary Identifier~~
~~(vi) 2010BA/2010CA N301 - Patient Address1~~
~~(vii) 2010CA N302 - Patient Address2~~
~~(viii) 2010CA N401 - Patient City Name~~
~~(ix) 2010CA N402 - Patient State~~
~~(x) 2010CA N403 - Patient Zip Code~~
~~(xi) 2010CA DMG03 - Patient Date of Birth~~
~~(xii) 2010CA DMG03 - Patient Sex~~
~~(xiii) 2010CA REF01 - Patient Secondary ID Qualifier~~
~~(xiv) 2010CA REF02 - Patient Secondary ID~~
~~(n) 2300 CLM05-1 - Facility Type Code~~
~~(o) 2300 CLM05-3 - Claim Frequency Type Code~~
~~(p) 2300 REF02 When REF01 = F8 - Original Reference Number~~
~~(q) 2300 CLM01 - Patient Account Number~~
~~(r) 2300 REF02 When REF01 = EA - Medical Record Number~~
~~(s) 2300 CLM02 - Total Claim Charge Amount~~
~~(t) 2300 AMT02 When AMT01 = F5 - Patient Paid Amount~~
~~(u) 2320 AMT02 When AMT01 = D - COB Payer Paid Amount~~
~~(v) 2310D NM103 - Service Facility Name~~
~~(w) 2310D NM109 - Service Facility ID Code~~
~~(x) 2330B DTP03 When DTP01 = 573 - Claim Adjudication Date~~
~~(y) 2320 AMT02 When AMT01 = B6 - COB Allowed Amount~~
~~(z) Claim Adjustment Information~~
~~(i) 2320 CAS01 - Claim Adjustment Group Code~~
~~(ii) 2320 CAS02 - Claim Adjustment Reason Code~~
~~(iii) 2320 CAS03 - Claim Level Adjustment Amount~~
~~(aa) 2310D NM109 - Laboratory or Facility Primary Identifier~~
~~(bb) Diagnosis Information~~
~~(i) 2300 HI01-2 - Principal Diagnosis~~
~~(ii) 2300 HI02-2~~
~~(iii) 2300 HI03-2~~
~~(iv) 2300 HI04-2~~
~~(v) 2300 HI05~~
~~(vi) 2300 HI06-2~~
~~(vii) 2300 HI07-2~~
~~(viii) 2300 HI08-2~~
~~(ix) 2300 HI09-2~~
~~(x) 2300 HI10~~
~~(xi) 2300 HI11-2~~
~~(xii) 2300 HI12-2~~
~~(cc) 2310B PRV03 or 2000A - Rendering Provider Specialty~~
~~(dd) Rendering Provider Information~~
~~(i) 2310B NM103 - Rendering Provider LName~~
~~(ii) 2310B NM104 - Rendering Provider FName~~
~~(iii) 2310B NM105 - Rendering Provider Name Middle~~

- ~~_____ (iv) 2310B NM107 – Rendering Provider Name Suffix~~
- ~~_____ (v) 2310B NM109 – Rendering Provider Primary Identifier~~
- ~~_____ (vi) 2310B REF02 – Rendering Provider Secondary ID~~
- ~~_____ (ee) 2400 LX01 – Line Counter~~
- ~~_____ (ff) 2400 DTP03 WHEN DTP01 = 472 – Date(s) of Service~~
- ~~_____ (gg) Provider Modifiers~~
- ~~_____ (i) 2400 SV101-2~~
- ~~_____ (ii) 2400 SV101-3~~
- ~~_____ (iii) 2400 SV101-4~~
- ~~_____ (iv) 2400 SV101-5~~
- ~~_____ (v) 2400 SV101-6~~
- ~~_____ (hh) 2400 SV104 – Days or Units~~
- ~~_____ (ii) 2400 SV102 – Line Item Charge Amount~~
- ~~_____ (jj) 2400 AMT02 – Allowed Amount~~
- ~~_____ (kk) 2410 LIN03 – Drug Identification~~
- ~~_____ (ll) 2410 REF02 When REF01 = XZ – Prescription Number~~
- ~~_____ (mm) Drug Information~~
- ~~_____ (i) 2410 CTP05-1 – Drug Units Qualifier~~
- ~~_____ (ii) 2410 CTP04 – Drug Number of Units~~
- ~~_____ (iii) 2410 CTP03 – Drug Cost or Unit Price~~
- ~~_____ (nn) Line Adjustment Codes~~
- ~~_____ (i) 2430 CAS01 – Line Adjustment Group Code~~
- ~~_____ (ii) 2430 CAS02 – Line Adjustment Reason Code~~
- ~~_____ (iii) 2430 CAS03 – Line Level Adjustment Amount.~~
- ~~_____ (4) Institutional Medical Claims. Each carrier must submit the following data elements for each institutional medical claim:~~
- ~~_____ (a) BHT01 BHT06 – Hierarchical Structure Code~~
- ~~_____ (b) GS08 – Functional Group Header~~
- ~~_____ (c) GS01 – Functional Group Header~~
- ~~_____ (d) Submitter Information~~
- ~~_____ (i) 1000A NM103 – Submitter Name~~
- ~~_____ (ii) 1000A NM109 – Submitter Identifier~~
- ~~_____ (iii) 1000A PER01-05 – Submitter EDI Contact Information~~
- ~~_____ (e) 1000B NM103 – Receiver Name~~
- ~~_____ (f) 1000B NM109 – Receiver Identifier~~
- ~~_____ (g) Billing Provider Information~~
- ~~_____ (i) 2010AA NM103 – Billing Provider Name~~
- ~~_____ (ii) 2010AA NM109 – Billing Provider ID~~
- ~~_____ (iii) 2010AA REF02 – Billing Provider Secondary ID~~
- ~~_____ (h) 2000B SBR02 – Individual Relationship Code~~
- ~~_____ (i) 2000B SBR03 – Insured Group or Policy Number~~
- ~~_____ (j) 2010BC NM103 – Payer Name~~
- ~~_____ (k) Subscriber Information~~
- ~~_____ (i) 2010BA NM103 – Subscriber Lname~~
- ~~_____ (ii) 2010BA NM104 – Subscriber Fname~~
- ~~_____ (iii) 2010BA NM105 – Subscriber Middle Name~~
- ~~_____ (iv) 2010BA NM109 – Subscriber Primary Identifier~~
- ~~_____ (v) 2010BA N301 – Subscriber Address1~~
- ~~_____ (vi) 2010BA N302 – Subscriber Address2~~
- ~~_____ (vii) 2010BA N401 – Subscriber City Name~~
- ~~_____ (viii) 2010BA N402 – Subscriber State~~
- ~~_____ (ix) 2010BA N403 – Subscriber Zip Code~~
- ~~_____ (x) 2010BA DMG02 – Subscriber Date of Birth~~
- ~~_____ (xi) 2010BA DMG03 – Subscriber Sex~~

- ~~_____ (xii) 2010BA REF01 – Subscriber Secondary ID Qualifier~~
- ~~_____ (xiii) 2010BA REF02 – Subscriber Secondary Identification~~
- ~~_____ (l) Patient Information~~
- ~~_____ (i) 2000C PAT01 – Patients Relationship to Insured~~
- ~~_____ (ii) 2010CA NM103 – Patient Lname~~
- ~~_____ (iii) 2010CA NM104 – Patient Fname~~
- ~~_____ (iv) 2010CA NM105 – Patient Middle Name~~
- ~~_____ (v) 2010CA NM109 – Patient Primary Identifier~~
- ~~_____ (vi) 2010BA/2010CA N301 – Patient Address1~~
- ~~_____ (vii) 2010CA N302 – Patient Address2~~
- ~~_____ (viii) 2010CA N401 – Patient City Name~~
- ~~_____ (ix) 2010CA N402 – Patient State~~
- ~~_____ (x) 2010CA N403 – Patient Zip Code~~
- ~~_____ (xi) 2010CA DMG02 – Patient Date of Birth~~
- ~~_____ (xii) 2010CA DMG03 – Patient Sex~~
- ~~_____ (xiii) 2010CA REF01 – Patient Secondary ID Qualifier~~
- ~~_____ (xiv) 2010CA REF02 – Patient Secondary Identification~~
- ~~_____ (m) 2300 CLM05-1 – Facility Type Code~~
- ~~_____ (n) 2300 CLM05-3 – Claim Frequency Type Code~~
- ~~_____ (o) 2300 REF02 When REF01 = F8 – Original Reference Number~~
- ~~_____ (p) 2300 DTP03 When DTP01 = 435 – Admission Date/Hour~~
- ~~_____ (q) Institutional Claim Code Information~~
- ~~_____ (i) 2300 CL101 – Institutional Claim Code Admit Type~~
- ~~_____ (ii) 2300 CL102 – Institutional Claim Code Admit Source~~
- ~~_____ (iii) 2300 CL103 – Institutional Claim Code Pt Status~~
- ~~_____ (r) 2300 HI01-2 When HI01-1 = DR – Diagnosis Related Group (DRG)~~
- ~~_____ (s) 2300 DTP03 when DTP01 = 434 – Statement Date~~
- ~~_____ (t) 2300 DTP03 WHEN DTP01 = 096 – Discharge Date~~
- ~~_____ (u) 2300 DTP03 When DTP01 = 096 – Discharge Hour~~
- ~~_____ (v) 2300 CLM01 – Patient Account Number~~
- ~~_____ (w) 2300 REF02 When REF01 = EA – Medical Record Number~~
- ~~_____ (x) 2300 CLM02 – Total Claim Charge Amount~~
- ~~_____ (y) 2300 AMT02 When AMT01 = F5 – Patient Paid Amount~~
- ~~_____ (z) 2320 AMT02 WHEN AMT01 = C4 – Payer Prior Payment~~
- ~~_____ (aa) 2310E NM103 – Service Facility Name~~
- ~~_____ (bb) 2310E NM109 – Service Facility ID Code~~
- ~~_____ (cc) 2330B DTP03 WHEN DTP01 = 573 – Claim Adjudication Date~~
- ~~_____ (dd) 2320 AMT02 When AMT01 = B6 – COB Total Allowed Amount~~
- ~~_____ (ee) Claim Adjustment Information~~
- ~~_____ (i) 2320 CAS01 – Claim Adjustment Group Code~~
- ~~_____ (ii) 2320 CAS02 – Claim Adjustment Reason Code~~
- ~~_____ (iii) 2320 CAS03 – Claim Level Adjustment Amount~~
- ~~_____ (ff) 2310E NM109 – Laboratory or Facility Primary ID~~
- ~~_____ (gg) Principal, Admitting, E-Code and Patient Reason for Visit Diagnosis Information PAT~~
- ~~_____ (i) 2300 HI02-2 When HI02-1 ZZ – Reason for Visit 1~~
- ~~_____ (ii) 2300 HI02-2 When HI02-1 ZZ – Reason for Visit 2~~
- ~~_____ (iii) 2300 HI02-2 When HI02-1 ZZ – Reason for Visit 3~~
- ~~_____ (hh) 2300 K3 – Present on Admission Indicator~~

~~_____ (ii) Principal, Admitting, E-Code and Patient Reason for Visit Diagnosis Information Admitting DX~~

- ~~_____ (i) 2300 HH02-2 When HH02-1 = BJ~~
- ~~_____ (ii) 2300 HH01-2 When HH01-1 = BK~~
- ~~_____ (jj) Other Diagnosis Information~~
 - ~~_____ (i) 2300 HH01-2 When HH01-1 = BF~~
 - ~~_____ (ii) 2300 HH02-2 When HH02-1 = BF~~
 - ~~_____ (iii) 2300 HH03-2 When HH03-1 = BF~~
 - ~~_____ (iv) 2300 HH04-2 When HH04-1 = BF~~
 - ~~_____ (v) 2300 HH05-2 When HH05-1 = BF~~
 - ~~_____ (vi) 2300 HH06-2 When HH06-1 = BF~~
 - ~~_____ (vii) 2300 HH07-2 When HH07-1 = BF~~
 - ~~_____ (viii) 2300 HH08-2 When HH08-1 = BF~~
 - ~~_____ (ix) 2300 HH09-2 When HH09-1 = BF~~
 - ~~_____ (x) 2300 HH10-2 When HH10-1 = BF~~
 - ~~_____ (xi) 2300 HH11-2 When HH11-1 = BF~~
 - ~~_____ (xii) 2300 HH12-2 When HH12-1 = BF~~

~~_____ (kk) Principal, Admitting, E-Code and Patient Reason for Visit Diagnosis Information~~

- ~~_____ (i) 2300 HH03-2 When HH03-1 = BN E-Code 1~~
- ~~_____ (ii) 2300 HH03-2 When HH03-1 = BN E-Code 2~~
- ~~_____ (iii) 2300 HH03-2 When HH03-1 = BN E-Code 3~~
- ~~_____ (ll) 2300 HH01-2 When HH01-1 = BR Principal Procedure Code Principal Procedure~~

~~_____ (mm) 2300 HH01-4 When HH01-1 = BR Principal Procedure Date~~

- ~~_____ (nn) Other Procedure Codes and Dates~~
 - ~~_____ (i) 2300 HH01-2 When HH01-1 = BQ Other Procedure Code~~
 - ~~_____ (ii) 2300 HH01-4 When HH01-1 = BQ Other Procedure Date~~
 - ~~_____ (iii) 2300 HH02-2 When HH02-1 = BQ Other Procedure Code~~
 - ~~_____ (iv) 2300 HH02-4 When HH02-1 = BQ Other Procedure Date~~
 - ~~_____ (v) 2300 HH03-2 When HH03-1 = BQ Other Procedure Code~~
 - ~~_____ (vi) 2300 HH03-4 When HH03-1 = BQ Other Procedure Date~~
 - ~~_____ (vii) 2300 HH04-2 When HH04-1 = BQ Other Procedure Code~~
 - ~~_____ (viii) 2300 HH04-4 When HH04-1 = BQ Other Procedure Date~~
 - ~~_____ (ix) 2300 HH05-2 When HH05-1 = BQ Other Procedure Code~~
 - ~~_____ (x) 2300 HH05-4 When HH05-1 = BQ Other Procedure Date~~

~~_____ (oo) Attending Physician Information~~

- ~~_____ (i) 2000A or 2310A PRV03 - Attending Physician Specialty Information~~
 - ~~_____ (ii) 2310A NM103 - Attending Physician LName~~
 - ~~_____ (iii) 2310A NM104 - Attending Physician FName~~
 - ~~_____ (iv) 2310A NM105 - Attending Physician Name Middle~~
 - ~~_____ (v) 2310A NM107 - Attending Physician Name Suffix~~
 - ~~_____ (vi) 2310A NM109 - Attending Physician Primary ID~~
 - ~~_____ (vii) 2310A REF02 - Attending Physician Secondary ID~~
- ~~_____ (pp) 2400 LX01 - Line Counter~~
- ~~_____ (qq) 2400 DTP03 When DTP01 = 472 Date(s) of Service~~
- ~~_____ (rr) Institutional Service Line Codes~~

~~_____ (i) 2400 SV202-2 - Institutional Service Line Product/Service ID~~

- ~~_____ (ii) 2400 SV202-3 - Institutional Service Line Procedure Modifier -1~~
- ~~_____ (iii) 2400 SV202-4 - Institutional Service Line Procedure Modifier -2~~
- ~~_____ (iv) 2400 SV202-5 - Institutional Service Line Procedure Modifier -3~~
- ~~_____ (v) 2400 SV202-6 - Institutional Service Line Procedure Modifier -4~~
- ~~_____ (vi) 2400 SV201 - Institutional Service Line (Revenue Codes)~~

~~_____ (ss) 2400 SV205 - Service Units~~

- ~~_____ (tt) 2400 SV203 - Line Item Charge Amount~~
- ~~_____ (uu) Drug Information~~
 - ~~_____ (i) 2410 LIN03 - Drug Identification~~
 - ~~_____ (ii) 2410 REF02 when REF01 = XZ - Prescription Number~~

~~_____ (iii) 2410 CTP05-1 - Drug Units Qualifier~~

- ~~_____ (iv) 2410 CTP04 - Drug Number of Units~~
- ~~_____ (v) 2410 CTP03 - Drug Cost or Unit Price~~
- ~~_____ (vv) Line Adjustment Codes~~
 - ~~_____ (i) 2430 CAS01 - Line Adjustment Group Code~~
 - ~~_____ (ii) 2430 CAS02 - Line Level Adjustment Reason Code~~
 - ~~_____ (iii) 2430 CAS03 - Line Level Adjustment Amount.~~

~~_____ (5) Pharmacy claims. Each carrier must submit the following data elements for each pharmacy claim:~~

- ~~_____ (a) Payer Name~~
- ~~_____ (b) Insured Group or Policy Number~~
- ~~_____ (c) Subscriber Information~~
 - ~~_____ (i) Subscriber Last Name~~
 - ~~_____ (ii) Subscriber First Name~~
 - ~~_____ (iii) Subscriber Middle Name~~
 - ~~_____ (iv) Subscriber Primary Identifier~~
 - ~~_____ (v) Subscriber Address~~
 - ~~_____ (vi) Subscriber Address 2~~
 - ~~_____ (vii) Subscriber City~~
 - ~~_____ (viii) Subscriber State~~
 - ~~_____ (ix) Subscriber Zipcode~~
 - ~~_____ (x) Subscriber Phone~~
 - ~~_____ (xi) Subscriber Date of Birth~~
 - ~~_____ (xii) Subscriber Sex~~
 - ~~_____ (xiii) Subscriber Secondary Identification Qualifier~~
 - ~~_____ (xiv) Subscriber Secondary Identification~~
- ~~_____ (d) Patient Information~~
 - ~~_____ (i) Patients Relationship to Insured~~
 - ~~_____ (ii) Patient Last name~~
 - ~~_____ (iii) Patient First name~~
 - ~~_____ (iv) Patient Middle Name~~
 - ~~_____ (v) Patient Primary Identifier~~
 - ~~_____ (vi) Patient Address~~
 - ~~_____ (vii) Patient Address 2~~
 - ~~_____ (viii) Patient City~~
 - ~~_____ (ix) Patient State~~
 - ~~_____ (x) Patient ZipCode~~
 - ~~_____ (xi) Patient Phone~~
 - ~~_____ (xii) Patient Date of Birth~~
 - ~~_____ (xiii) Patient Sex~~
 - ~~_____ (xiv) Patient Secondary Identification Qualifier~~

- ~~(xv) Patient Secondary Identification~~
- ~~(e) RxClaimNo~~
- ~~(f) RxClaimNoCrossRef~~
- ~~(g) RxNo~~
- ~~(h) PBMMeID~~
- ~~(i) RXClaimTxnType~~
- ~~(j) RxType~~
- ~~(k) RxClaimXrefNo~~
- ~~(l) RxAdjType~~
- ~~(m) SubscriberSfx~~
- ~~(n) Prescriber Information~~
 - ~~(i) RxPrescriberID~~
 - ~~(ii) RxPrescriberNoType~~
 - ~~(iii) RxPrescriberName~~
- ~~(o) RxPharmcyNo~~
- ~~(p) MembMeareStatus~~
- ~~(q) RxWrittenDt~~
- ~~(r) RxFilledDt~~
- ~~(s) Reject Codes~~
 - ~~(i) Reject Code 1~~
 - ~~(ii) Reject Code 2~~
 - ~~(iii) Reject Code 3~~
 - ~~(iv) Reject Code 4~~
 - ~~(v) Reject Code 5~~
- ~~(t) RxPaidDt~~
- ~~(u) RxTotalPdAmt~~
- ~~(v) PatientPaidAmount~~
- ~~(w) RxQualifier~~
- ~~(x) RxID~~
- ~~(y) RxNDC~~
- ~~(z) RxTradeNm~~
- ~~(aa) RxGenericNm~~
- ~~(bb) GCNNumber~~
- ~~(cc) GPINumber~~
- ~~(dd) UnitsOfMeasure~~
- ~~(ee) UnitDoseIndicator~~
- ~~(ff) DispensingStatus~~
- ~~(gg) QuantityIntended~~
- ~~(hh) RxMtreFilQty~~
- ~~(ii) RxDaysSupplyNo~~
- ~~(jj) DrugStrength~~
- ~~(kk) DosageDescription~~
- ~~(ll) CompoundIndicator~~
- ~~(mm) RxNoRefills~~
- ~~(nn) RxRefillNo~~
- ~~(oo) RxDAWCode~~
- ~~(pp) Therapeutic ClassCode - AHFS~~
- ~~(qq) USC Code~~
- ~~(rr) DEA Class of Drug~~
- ~~(ss) Drug Class~~
- ~~(tt) Drug Category Code~~
- ~~(uu) RxBrandInd~~
- ~~(vv) RecordDateTimeStamp.~~

R428-15-7.]Extensions and Exemptions.

~~[A carrier that covers fewer than 2,500 individual Utah residents is exempt from all requirements of this rule.~~

~~(1) A carrier that covers fewer than 2,500 individual Utah residents is exempt from all requirements of this rule.~~

(2) The committee may grant exemptions when the carrier demonstrates that compliance imposes an unreasonable cost to the carrier. The committee may grant extensions when the carrier documents that technical or unforeseen difficulties prevent compliance.

(a) A carrier may request an extension for any deadline required in this rule. For each deadline for which the carrier requests an extension, the carrier must submit its request no less than 15 calendar days before the deadline in question.

(b) A carrier may request an exemption from any particular requirement or set of requirements of this rule. The carrier must submit a request for exemption no less than 30 calendar days before the date the carrier would have to comply with the requirement.

(3) The carrier requesting an extension or exemption shall include:

(a) The carrier's name, mailing address, telephone number, and contact person;

(b) the dates the exemption or extension is to start and end;

(c) a description of the relief sought, including reference to specific sections or language of the requirement;

(d) a statement of facts, reasons, or legal authority in support of the request; and

(e) a proposed alternative to the requirement or deadline.

(4) The committee may grant an extension for a maximum of 30 calendar days. A carrier wishing an additional extension must submit an additional, separate request.

(5) The committee may grant an exemption for a maximum of one calendar year. A carrier wishing an additional exemption must submit an additional, separate request.

R428-15-[8]7. Third-party Contractors.

The Office may contract with a third party to collect and process the health care claims data and will prohibit it from using the data in any way but those specifically designated in the scope of work.

R428-15-[9]8. Carrier Registration.

Each carrier required to submit health care claims data shall register by September 1 of each year. Each carrier newly required to submit health care claims data under this rule, either by a change to the rule or because it no longer qualifies for an exemption, shall register with the Office by completing the registration on line at: <http://health.utah.gov/hda/apd/> within 30 days of being required to submit. ~~[Each carrier shall register by September 21, 2009 and annually thereafter by September 1 of each year.]~~

R428-15-[10]9. Testing of Files.

(1) Prior to ~~February~~[October] 14[5], 2014[09], each carrier required to report under this rule shall ~~meet with~~[submit to] the Office or its designee to establish a data submission testing plan and time line[a dataset for determining compliance with the standards for data submission]. Each carrier shall contact the Office to arrange this meeting by January 15, 2014[This test dataset must be in the same format as required by the technical specifications document and shall contain data for any month within 2007 or 2008].

(2) ~~Each carrier shall, according to its data submission testing plan, submit to the Office or its designee a test dataset for determining compliance with the standards for data submission and participate in testing. This test dataset must be in the same format as required by the technical specifications as of May 15, 2014. [Each carrier must meet with the Office prior to the carrier's initial data submission to review individual submission formatting. The carrier must contact the Office to arrange this meeting by September 30, 2009.]~~

(3) Carriers that become subject to this rule after ~~January 15~~[September 21], 2014[09] shall submit to the Office a dataset for determining compliance with the standards for data submission no later than 90 days after the first date of becoming subject to the rule.

R428-15-1[1]0. Rejection of Files.

The Office or its designee may reject and return any data submission that fails to conform to the submission requirements. ~~[Paramount among submission requirements are First Name, Last Name, Member ID, Relationship to Subscriber, Date of Birth, Address, City, State, Zip Code, Sex, which are key data fields that the carrier must submit for each enrolled member and claim.—]~~A carrier whose submission is rejected shall resubmit the data in the appropriate, corrected format to the Office, or its designee within 10 state business days of notice that the data does not meet the submission requirements.

R428-15-1[2]1. Replacement of Data Files.

A carrier may replace a complete dataset submission if no more than one year has passed since the end of the month in which the file was submitted. However, the Office may allow a later submission if the carrier can establish exceptional circumstances for the replacement.

R428-15-1[3]2. Limitation of Liability.

As provided in Utah Code Section 26-25-1, a carrier that submits data pursuant to this rule, including third-party administrators that submit employee data, is not liable for providing the information to the Department.

R428-15-1[4]3. Penalties.

Pursuant to Section 26-23-6, a carrier that violates any provision of this rule may be assessed an administrative civil money penalty for each day of non-compliance. Fines may be imposed as follows:

- (1) Not to exceed the sum of \$10,000 per violation
- (2) Each day of violation is a separate violation.

KEY: APCD, [all] payers[~~database~~], claims[~~health care quality~~], transparency

Date of Enactment or Last Substantive Amendment: ~~[March 16, 2012]~~2014

Authorizing, and Implemented or Interpreted Law: 26-33a; 26-25

Workforce Services, Employment Development **R986-200-204** Eligibility Requirements

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 38140
FILED: 11/14/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to comply with federal regulations.

SUMMARY OF THE RULE OR CHANGE: The amendment adds a provision that clients who are violating parole or probation are not eligible for financial assistance.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsection 35A-1-104(4) and Subsection 35A-3-302(5)(b)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This applies to federally-funded programs so there are no costs or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** This is a federally-funded program so there are no costs or savings to local government.
- ◆ **SMALL BUSINESSES:** There will be no costs to small businesses to comply with these changes because this is a federally-funded program.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no costs to persons other than small businesses, businesses or local government entities to comply with these changes because there are no costs or fees associated with these proposed changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because there are no costs or fees associated with these proposed changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no compliance costs associated with this change. There are no fees associated with this change. There will be no cost to anyone to comply with these changes. There will be no fiscal impact on any business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 WORKFORCE SERVICES
 EMPLOYMENT DEVELOPMENT
 140 E 300 S
 SALT LAKE CITY, UT 84111-2333
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Suzan Pixton by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 01/07/2014

AUTHORIZED BY: Jon Pierpont, Executive Director

**R986. Workforce Services, Employment Development.
 R986-200. Family Employment Program.
 R986-200-204. Eligibility Requirements.**

(1) To be eligible for financial assistance under the FEP or FEPTP a household assistance unit must include:

(a) a pregnant woman when it has been medically verified that she is in the third calendar month prior to the expected month of delivery, or later, and who, if the child were born and living with her in the month of payment, would be eligible. The unborn child is not included in the financial assistance payment; or

(b) at least one minor dependent child who is a citizen or meets the alienage criteria. All minor children age 6 to 16 must attend school, or be exempt under 53A-11-102, to be included in the household assistance unit for a financial assistance payment for that child.

(i) A minor child is defined as being under the age of 18 years and not emancipated by marriage or by court order; or

(ii) an unemancipated child, at least 18 years old but under 19 years old, with no high school diploma or its equivalent, who is a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and the school has verified a reasonable expectation the 18 year old will complete the program before reaching age 19.

(2) Households must meet other eligibility requirements of income, assets, and participation in addition to the eligibility requirements found in R986-100.

(3) Persons who are fleeing to avoid prosecution of a felony, or who are violating parole or probation for a felony or a misdemeanor, are ineligible for financial assistance.

(4) All clients who are required to complete a negotiated employment plan as provided in R986-200-206 must attend a FEP orientation meeting, sign a FEP Agreement, and negotiate and sign an employment plan within 30 days of submitting his or her application for assistance. Attendance at the orientation meeting can only be excused for reasonable cause as defined in R986-200-212(8). The application for assistance will not be complete until the client has attended the meeting.

(5) If a parent in the financial assistance household received TANF funded financial assistance benefits from another state or from a tribe, the entire household is ineligible to receive TANF funded financial assistance in Utah the same month. This is true even if household composition has changed. If a child in the household has received TANF funded financial assistance in another household, in this or any other state, the child will be excluded from the household determination in the same month according to the provisions of R986-200-205(2)(d). TANF funded financial assistance in Utah is FEP, FEP-TP, Emergency Assistance and AA.

KEY: family employment program
Date of Enactment or Last Substantive Amendment:
~~December 5, 2012~~ 2014
Notice of Continuation: September 8, 2010
Authorizing, and Implemented or Interpreted Law: 35A-3-301 et seq.

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends December 31, 2013.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (*example*). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Division of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

From the end of the 30-day waiting period through March 31, 2014, an agency may notify the Division of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

Environmental Quality, Air Quality
R307-335
Degreasing and Solvent Cleaning
Operations

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 37829

FILED: 11/06/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On 07/03/2013, the Air Quality Board proposed for public comment amendments to Rule R307-335. During the 30-day public comment period, the Specialty Graphic Imaging Association and the American Coating Association (ACA) submitted comments contending that the VOC-content limit in Subsection R307-335-7(3) constrains their use of solvents to acetone. Because acetone increases fire risk due to its low flash point, the ACA is particularly concerned that the use of acetone in ink manufacturing will result in workplace fires. Further research done by the Division of Air Quality (DAQ) found that the current VOC-content limit provided for too few solvent options to all industries. Raising the VOC-content limit allows for more options for industries which enables the rule to include industries that had previously been excluded from the rule.

SUMMARY OF THE RULE OR CHANGE: The exemption for electrical and electronic components is removed and an exemption for Department of Defense contractors is added. The solvent VOC-content limit in Subsection R307-335-7(3) (b) is changed from 0.42 to 2.49 pounds per gallon or less. The compliance schedule for the rule is changed to 06/01/2014. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the August 1, 2013, issue of the Utah State Bulletin, on page 23. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 19-2-104(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** Because the changes made to the rule do not create any new requirements for the state, there are no anticipated costs or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** Because the changes made to the rule do not create any new requirements for local government, there are no anticipated costs or savings.

◆ **SMALL BUSINESSES:** By increasing the VOC content limit of solvents to 2.49 pounds per gallon or less and by expanding the rule applicability to the broad electronic industrial sector, several small businesses may now be required to comply with the requirements of this rule. Because the industrial solvent cleaners with a VOC content of 2.49 pounds per gallon or less are competitively priced, there are no anticipated costs or savings to limit VOC emissions through using industrial solvent cleaners with a VOC content of 2.49 pounds per gallon or less. If an owner or operator chooses to use industrial solvent cleaners that don't meet the VOC content limits and instead installs an emissions control system, the cost would be approximately \$1,640 per ton of VOC removed.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because the revisions do not create new requirements for persons other than small businesses, businesses, or local government entities, there are no anticipated costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: By increasing the VOC content limit of solvents to 2.49 pounds per gallon or less and by expanding the rule applicability to the broad electronic industrial sector, several small businesses may now be required to comply with the requirements of this rule. Because the industrial solvent cleaners with a VOC content of 2.49 pounds per gallon or less are competitively priced, there are no anticipated costs or savings to limit VOC emissions through using industrial solvent cleaners with a VOC content of 2.49 pounds per gallon or less. If an owner or operator chooses to use industrial solvent cleaners that don't meet the VOC content limits and instead installs an emissions control system, the cost would be approximately \$1,640 per ton of VOC removed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: By increasing the VOC content limit of solvents to 2.49 pounds per gallon or less and by expanding the rule applicability to the broad electronic industrial sector, several small businesses may now be required to comply with the requirements of this rule. Because the industrial solvent cleaners with a VOC content of 2.49 pounds per gallon or less are competitively priced, there are no anticipated costs or savings to limit VOC emissions through using industrial solvent cleaners with a VOC content of 2.49 pounds per gallon or less. If an owner or operator chooses to use industrial solvent cleaners that don't meet the VOC content limits and instead installs an emissions control system, the cost would be approximately \$1,640 per ton of VOC removed.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY
 AIR QUALITY
 FOURTH FLOOR

195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/31/2013

THIS RULE MAY BECOME EFFECTIVE ON: 02/05/2014

AUTHORIZED BY: Bryce Bird, Director

KEY: air pollution, degreasing, solvent cleaning
Date of Enactment or Last Substantive Amendment: [2013]2014
Notice of Continuation: February 1, 2012
Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)

Environmental Quality, Air Quality
R307-401-19
General Approval Order

NOTICE OF CHANGE IN PROPOSED RULE
DAR FILE NO.: 37833
FILED: 11/06/2013

R307. Environmental Quality, Air Quality.
R307-335. Degreasing and Solvent Cleaning Operations.

.....

R307-335-7. Industrial Solvent Cleaning.

(1) Exemptions. The requirements of R307-335-7 do not apply to aerospace, wood furniture, shipbuilding and repair, flat wood paneling, large appliance, metal furniture, paper film and foil, plastic parts, miscellaneous metal parts coatings and light autobody and truck assembly coatings, flexible packaging, lithographic and letterpress printing materials, fiberglass boat manufacturing materials, ~~electrical and electronic components,~~ and operations that are exclusively covered by Department of Defense military technical data and performed by a Department of Defense contractor and/or on site at installations owned and/or operated by the United States Armed Forces.

(2) Operators of industrial solvent cleaning that emit 15 pounds of VOCs or more per day from industrial solvent cleaning operations, shall reduce VOC emissions from the use, handling, storage, and disposal of cleaning solvents and shop towels by implementing the following work practices:

- (a) Covering open containers; and
- (b) Storing used applicators and shop towels in closed fire proof containers.

(3) Owners or operators of industrial solvent cleaning operations shall limit VOC emissions by either:

- (a) Using cleaning solutions with vapor pressure less than or equal to eight millimeters of mercury (mm Hg) at 20 degrees C;
- (b) Using solvents with a VOC content of ~~[0.42]~~2.49 pounds per gallon or less; or
- (c) Installing an emission control system designed to have an overall control efficiency of at least 85%.

.....

R307-335-10. Compliance Schedule.

(1) All sources ~~[defined]~~ shall be in compliance with R307-335-~~[2]~~7 ~~[shall be in compliance with R307-335-]~~ by ~~[September]~~June 1, 201~~[3]~~4.

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: On 07/03/2013, the Air Quality Board proposed the new Section R307-401-19 to provide an alternative to the normal approval order process called a general approval order (GAO). A GAO could be developed for a category of similar types of sources and would go through the normal public review process before being issued. The changes made to the proposed rule are in response to comments received during the public comment period.

SUMMARY OF THE RULE OR CHANGE: Language is added to the rule to clarify that the GAO process would be limited to smaller sources that do not require a case-by-case impact analysis under current rules for individual approval orders. Language is added to clarify that the director may require a source to obtain an individual approval order if the director determines the source may cause a violation of a national ambient air quality standard. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed amendment that was published in the August 1, 2013, issue of the Utah State Bulletin, on page 29. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-108 and Subsection 19-2-104(3)(q)

ANTICIPATED COST OR SAVINGS TO:

- ♦ THE STATE BUDGET: These changes do not create any additional requirements to the state; therefore, there are no anticipated costs or savings to the state budget.
- ♦ LOCAL GOVERNMENTS: These changes do not create any additional requirements to local government; therefore, there are no anticipated costs or savings.

♦ **SMALL BUSINESSES:** The changes made to the rule are to add clarification as to which sources are not eligible for coverage under a general approval order. No new requirements are created for small businesses; therefore, there are no anticipated costs or savings.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These changes do not create any additional requirements to persons other than small businesses, businesses, or local government entities; therefore, there are no anticipated costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes made to the rule are to add clarification as to which sources are not eligible for coverage under a general approval order. No new requirements are created for affected persons; therefore, there are no added compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes made to the rule are to add clarification as to which sources are not eligible for coverage under a general approval order. No new requirements are created that would have a fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W
SALT LAKE CITY, UT 84116-3085
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 01/02/2014

AUTHORIZED BY: Bryce Bird, Director

R307. Environmental Quality, Air Quality.

R307-401. Permit: New and Modified Sources.

R307-401-19. General Approval Order.

(1) The director may issue a general approval order that would establish conditions for similar new or modified sources of the same type or for specific types of equipment. The general approval order may apply throughout the state or in a specific area.

(a) A major source or major modification as defined in R307-403, R307-405, or R307-420 for each respective area is not eligible for coverage under a general approval order.

(b) A source that is subject to the requirements of R307-403-5 is not eligible for coverage under a general approval order.

(c) A source that is subject to the requirements of R307-410-4 is not eligible for coverage under a general approval order

unless a demonstration that meets the requirements of R307-410-4 was conducted.

(d) A source that is subject to the requirements of R307-410-5(1)(c)(ii) or (iii) is not eligible for coverage under a general approval order.

(2) A general approval order shall meet all applicable requirements of R307-401-8.

(3) The public notice requirements in R307-401-7 shall apply to a general approval order except that the director will advertise the notice of intent in a newspaper of statewide circulation.

(4) Application.

(a) After a general approval order has been issued, the owner or operator of a proposed new or modified source may apply to be covered under the conditions of the general approval order.

(b) The owner or operator shall submit the application on forms provided by the director in lieu of the notice of intent requirements in R307-401-5 for all equipment covered by the general approval order.

(c) The owner or operator may request that an existing, individual approval order for the source be revoked, and that it be covered by the general approval order.

(d) The owner or operator that has applied to be covered by a general approval order shall not initiate construction, modification, or relocation until the application has been approved by the director.

(5) Approval.

(a) The director will review the application and approve or deny the request based on criteria specified in the general approval order for that type of source. If approved, the director will issue an authorization to the applicant to operate under the general approval order.

(b) The public notice requirements in R307-401-7 do not apply to the approval of an application to be covered under the general approval order.

(c) The director will maintain a record of all stationary sources that are covered by a specific general approval order and this record will be available for public review.

(6) Exclusions and Revocation~~[and Exclusions]~~.

(a) The director may require any source that has applied for or is authorized by a general approval order to submit a notice of intent and obtain an individual approval order under R307-401-8. Cases where an individual approval order ~~[may]~~will be required include, but are not limited to, the following:

(i) the director determines that the source does not meet the criteria specified in the general approval order;

(ii) the director determines that the application for the general approval order did not contain all necessary information to evaluate applicability under the general approval order;~~[or]~~

(iii) modifications were made to the source that were not authorized by the general approval order or an individual approval order~~[-];~~

(iv) the director determines the source may cause a violation of a national ambient air quality standard; or

(i)v) [When determining whether an individual approval order is required,] the director determines that one is required based on~~[may consider]~~ the compliance history and current compliance status of the source or applicant.

(b)(i) Any source authorized by a general approval order may request to be excluded from the coverage of the general approval order by submitting a notice of intent under R307-401-5 and receiving an individual approval order under R307-401-8.

(ii) When the director issues an individual approval order to a source subject to a general approval order, the applicability of the general approval order to the individual source is revoked on the effective date of the individual approval order.

(7) Modification of General Approval Order. The director may modify, replace, or discontinue the general approval order.

(a) Administrative corrections may be made to the existing version of the general approval order. These corrections are to correct typographical errors or similar minor administrative changes.

(b) All other modifications or the discontinuation of a general approval order shall not apply to any source authorized under previous versions of the general approval order unless the owner or operator submits an application to be covered under the new version of the general approval order. Modifications under

R307-401-19(7)(b) shall meet the public notice requirements in R307-401-19(3).

(c) A general approval order shall be reviewed at least every three year. The review of the general approval order shall follow the public notice requirements of R307-401-19(3).

(8) Modifications at a source covered by a general approval order. A source may make modifications only as authorized by the approved general approval order. Modifications outside the scope authorized by the approved general approval order shall require a new application for either an individual approval order under R307-401-8 or a general approval order under R307-401-19.

KEY: air pollution, permits, approval orders, greenhouse gases
Date of Enactment or Last Substantive Amendment: [2013]2014
Notice of Continuation: June 6, 2012
Authorizing, and Implemented or Interpreted Law: 19-2-104(3)(q); 19-2-108

End of the Notices of Changes in Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text ([example]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Division of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

Agriculture and Food, Regulatory Services **R70-410**

Grading and Inspection of Shell Eggs with Standard Grade and Weight Classes

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 38142

FILED: 11/15/2013

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this emergency rule is to amend the rule to include a section regarding Small Egg Farms with less than 3,000 laying hens. Small Egg Producers intending to wholesale eggs need to follow rules and regulations for safe egg production. There is a growing trend for local small agriculture. One area of growth is in Small Egg Producers. The Utah Department of Agricultural and Food (UDAF) grades and inspects shell eggs under USDA requirements and UDAF has adopted by reference the applicable USDA regulations in the CFRs. One of the stipulations to the USDA regulations is that farms with less than 3,000 laying hens are

exempt from the Federal Egg Products Inspection Act and they are also exempt from the FDA's Egg Safety Rule, but they are limited to retail sales. UDAF has found out that there are several small egg producers with less than 3,000 laying hens that are producing eggs for wholesale without inspection. The main item of concern to public health and food safety is with the Salmonella Enteritidis bacteria. This bacteria is common in shell egg products and there have been many outbreaks throughout the United States which have been linked to Salmonella Enteritidis contamination with shell eggs. One major outbreak with 64 cases occurred in Salt Lake City in 1999. The Egg Products Inspection Act and the FDA's Egg Safety Rule require strict monitoring of the Salmonella Enteritidis bacteria. For example, the chicks being purchased must come from approved hatcheries and there is continuous salmonella testing requirement for the flocks. These strict measures have greatly minimized the presence of the bacteria out on the farm and there has been a reduction in outbreaks linked to Salmonella Enteritidis. Since these Small Egg Producers are exempt from salmonella testing and monitoring, there is a high risk for salmonella contamination in the eggs and this poses a higher threat to the public and increased odds for an outbreak. The FDA Retail Food Code requires restaurants and stores to purchase eggs from an approved inspected source. This amendment to incorporate small egg producers who chose to wholesale their eggs to stores and restaurants will allow them to have the opportunity to produce safer eggs. This will also

promote small agriculture production and the local products movement in a safe manner concerning the Salmonella Enteritidis issue.

SUMMARY OF THE RULE OR CHANGE: This change amend the rule authority to include small egg producers. Egg producers with less than 3,000 laying hens with intent to wholesale eggs will be required to follow the Utah Small Egg Producer Guidelines.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63G-3-701 and Section 63G-3-702 and Subsection 63G3-102(5)

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.
JUSTIFICATION: The main item of concern to public health and food safety is with the Salmonella Enteritidis bacteria. This bacteria is common in shell egg products and there have been many outbreaks throughout the United States which have been linked to Salmonella Enteritidis contamination with shell eggs. One major outbreak with 64 cases occurred in Salt Lake City in 1999. The Egg Products Inspection Act and the FDA's Egg Safety Rule require strict monitoring of the Salmonella Enteritidis bacteria.

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The cost to the State of Utah will be the cost of having an inspector travel to the location and perform the inspection. The estimated cost for salary and mileage for an inspection will be \$100 to \$200, depending upon distance of travel.
- ◆ **LOCAL GOVERNMENTS:** Egg grading and egg inspection is not within the jurisdiction of local health departments because they have no authority over egg inspections.
- ◆ **SMALL BUSINESSES:** There will be a registration cost to small businesses which will help pay for the inspection to be done: 6,000 doz or less - \$100; 6,001 to 30,000 doz. - \$200; 30,001 to 150,000 doz - \$300; and more than 150,000 doz - \$400.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule will be a savings to consumers because the eggs will be more accessible and the consumer will not have to drive as far to purchase local eggs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The cost for affected persons will be the annual registration fee which will be based on yearly production: 6,000 doz or less - \$100; 6,001 to 30,000 doz. - \$200; 30,001 to 150,000 doz - \$300; and more than 150,000 doz - \$400.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Fiscal impact will allow small businesses to legally wholesale eggs to restaurants and stores. This rule will positively affect small businesses. This rule will also minimize the incidents of

food outbreaks which will reduce the cost to the producers and consumers. Outbreaks are costly to the community.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 AGRICULTURE AND FOOD
 REGULATORY SERVICES
 350 N REDWOOD RD
 SALT LAKE CITY, UT 84116-3034
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Kathleen Mathews by phone at 801-538-7103, by FAX at 801-538-7126, or by Internet E-mail at kmathews@utah.gov
- ◆ Kyle Stephens by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at kylestephens@utah.gov

EFFECTIVE: 11/15/2013

AUTHORIZED BY: Leonard Blackham, Commissioner

R70. Agriculture and Food, Regulatory Services.

R70-410. Grading and Inspection of Shell Eggs with Standard Grade and Weight Classes.

R70-410-1. Authority.

A. Promulgated under authority of Section 4-4-2.

B. Scope: This rule shall apply to all shell egg producers who intend to wholesale eggs regardless of the size of operation.

C. Large Egg Producers with more than 3,000 laying hens shall adhere to these regulations: [B-] Adopt by reference: The Utah Department of Agriculture and Food hereby adopts and incorporates by reference the applicable provisions of the regulations issued by the United States Department of Agriculture for grading and inspection of shell eggs and the Standards, 7 CFR Part 56, January 1, 2005 edition, 21 CFR, 1 through 200, April 1, 2003 edition; 9 CFR 590, January 1, 2005 edition; and 7 CFR 59, January 1, 2005 edition.

R70-410-2. Handling and Disposition of Restricted Eggs.

Restricted eggs shall be disposed of by one of the following methods at point and time of segregation:

A. Checks and dirties must be shipped to an official egg breaking plant for further processing to egg products. Dirties may be shipped to a shell egg plant for cleaning. Checks and dirties may not be sold to restaurants, bakeries and food manufacturers, not to consumers, unless such sales are specifically exempted by Section 15 of the Federal Egg Products Inspection Act and not prohibited by State Law.

B. Leakers, loss and inedible eggs must be destroyed for human food purposes at the grading station or point of segregation by one of the methods listed below:

1. Discarded and intermingled with refuse such as shells, papers, trash, etc.
2. Processed into an industrial product or animal food at the grading station.
3. Denatured or de-characterized with an approved denaturant. (Such product shipped under government supervision and received under government supervision at a plant making industrial

products or animal food need not be denatured or de-characterized prior to shipment.)

4. Leakers, loss and inedible eggs may be shipped in shell form provided they are properly labeled and denatured by adding FD and C color to the shell or by applying a substance that will penetrate the shell and de-characterize the egg meat.

C. Incubator rejects (eggs which have been subjected to incubation) may not be moved in shell form and must be crushed and denatured or de-characterized at point and time of removal from incubation.

D. Blood type loss which has not diffused into the albumen may be moved to an official egg products plant in shell form without adding FD and C color to the shell provided they are properly labeled and moved directly to the egg products plant.

E. Containers used for eggs not intended for human consumption must be labeled with the word "inedible" on the outside of the container.

F. Other methods of disposition may be used only when approved by the Commissioner.

R70-410-3. Packaging.

A. It is unlawful for anyone to pack eggs into a master container which does not bear all required labeling, including responsible party, or to transport or sell eggs in such container.

B. Any person who, without prior authorization, acquires possession of a master container which bears a brand belonging to someone else shall, at his own expense, return such container to the registered owner within 30 days.

R70-410-4. Small Egg Producer Rules.

SCOPE

These rules are for Shell Egg Producers who intend to wholesale eggs and are USDA Exempt(flocks of 3,000 or fewer hens). The requirements are basic in design and cost in order enable the 3,000 or fewer hen egg producers to put shell eggs into commerce while maintaining Good Manufacturing Practices. It is understood that as the egg production increases, the complexity of the operation may increase and require additional facilities and/or equipment to maintain Good Manufacturing Practices.

LICENSE

1. Contact the UDAF for an Egg Information Packet. The information is also available on the UDAF website-ag.utah.gov. This Packet contains a license application from Utah Department of Agriculture and Food.

2. The Egg Information Packet includes a copy of Good Manufacturing Practices (Code of Federal Regulations 21 Part 110) and an Egg Grading Manual (USDA AMS Agricultural Handbook No. 75) and links to the Federal Egg Products Inspection Act and the FDA's Egg Safety Rule.

DEFINITIONS

1. "Case" means when referring to containers, an egg case as used in commercial practice in the United States, holding thirty dozens of shell eggs.

2. "Plant" means any building, machinery, apparatus or fixture, used for the storing, grading of packing of shell eggs.

3. "Potable water" means water that has been approved by the State Department of Health, or any agency or laboratory acceptable to the Commissioner of Agriculture as safe for drinking and food processing.

4. "Premises" means a tract of land with building or part of building with its grounds or appurtenances.

5. "Product" or "products" means shell eggs of domesticated chicken.

6. "Shell eggs" means eggs of domesticated chickens.

7. "Shell protected" means eggs which have had a protective covering such as oil applied to the shell surface.

8. "Dirty" means an individual egg that has an unbroken shell with adhering dirt or foreign material, prominent stains, or moderate stains covering more than one-thirty-second of the shell surface if localized, or one-sixteenth of the shell surface if scattered.

9. "Check" means an individual egg that has a broken shell or a crack in the shell, but its shell membranes are intact and its contents do not leak.

10. "Leaker" means an individual egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exuding or free to exude through the shell.

11. "Loss" means an egg that is inedible, cooked, frozen, contaminated, sour, musty, or an egg that contains a large blood spot, large meat spot, bloody white, green white, rot, stuck yolk, blood ring, embryo chick (at or beyond the blood ring state), free yolk in the white, or other foreign material.

12. "Restricted" means eggs classified as checks, dirties, incubator rejects, inedibles, leakers and loss.

FACILITIES

1. Establish a designated work area separate from domestic living areas.

a. Acceptable designated work areas may be an area in the basement, garage, or outbuilding.

b. Unacceptable work areas are domestic living areas, kitchens, laundry rooms, and bathrooms.

2. The work area requires a sanitary work surface that is smooth, durable, and easily cleanable. This work surface must be cleaned and sanitized before each use. Any sinks, drain boards, or other equipment used for the egg handling operation must be cleaned and sanitized before each use.

3. The premises shall be kept clean and free of rodent harborage areas.

4. Designated storage areas are required for new packaging materials, utensils, and equipment that may be used for the egg handling practices. These items must be protected from contamination (e.g. moisture, strong odors, dust, or insects).

5. Potable water is required for egg handling practices. Individual water wells require an annual bacteriological test (i.e. coliform bacteria). Commercial bottled water may be used.

6. Hand washing stations must be conveniently located in the egg handling work area and provided with soap and paper towels.

7. Toilet rooms must be accessible to employees.

8. A designated refrigerator is required. The refrigerator is not required to be new or of a commercial type and may be placed in the garage, etc. Equip the refrigerator with a suitable thermometer so you can routinely verify that the 40 degrees F to 45 degrees F egg storage temperature is being maintained.

EGG QUALITY ASSURANCE

Each producer will develop an egg quality assurance plan that, at a minimum, includes the following:

1. Chicks/pullets will be purchased from hatcheries that are NPIP (National Poultry Improvement Plan) "US Salmonella Enteritidis Clean" status or equivalent state plan.

2. Testing the flock for Salmonella Enteritidis with environmental drag swab sampling at a minimum of once per year per flock, but preferably at the following intervals:

- a. Pre-production (14-16 weeks of age)
- b. Mid-production (40-45 weeks of age)
- c. Post-Molt (4-6 weeks from the end of the molt)
- d. Record keeping and monitoring of records in regards to newly received chicks as well as testing at the time the flock is "pushed out".

3. A plan on how eggs will be handled if a Salmonella Enteritidis positive test is identified.

4. Basic bio-security protocols for the chicken houses.

Producers must immediately report positive Salmonella and Avian Influenza tests to the office of the State Veterinarian.

Producers may have their flocks participate in the NPIP program by contacting the Utah Department of Agriculture and Food, Division of Animal Industry.

EGG HANDLING

1. Hands must be thoroughly washed before starting egg handling and during egg handling to minimize cross-contamination of "finished" eggs.

2. Maintain clean and dry nest boxes, change nest material as needed to reduce dirty eggs. Gather eggs at least once daily.

3. Clean eggs as needed soon after collecting. (Cleaning eggs refrigerated below 55 degrees F may cause shells to crack or check.) Minimal cleaning protects the natural protective covering on the shell. Acceptable egg cleaning methods include:

a. dry cleaning by lightly "sanding" the stains or minimal dirty areas with sand paper;

b. using potable water in a hand spray bottle and immediately wiping dry with a single service paper towel, and/or;

c. briefly rinsing with running water spray and immediately wiping dry with a single service paper towel. The "wash" water shall be a minimum of 90 degrees F, which is warm "to the touch", and shall be at least twenty degrees warmer than the temperature of the eggs to be washed.

Unacceptable cleaning methods include: submerging shell eggs in water or any other solution or using cleaners that are not food grade and approved for shell egg cleaning. The porous egg shell is not impervious to odors, chemicals, and "off" flavors.

4. Refrigerate the "cleaned" eggs immediately to 45 degrees F or less. The "cleaned" eggs can be packaged later. Store "finished" packaged at eggs 45 degrees F or less.

PACKAGING AND LABELING

1. Use new packaging (pulp cartons, etc.). Packaging may be purchased online, group buying, small farm co-operatives, etc.

2. Self-adhesive attractive labels may be easily produced on a computer. The labels must include:

a. UDAF Permit number.

b. Common name of the food - "Eggs".

c. Quantity, the number of eggs, "One Dozen".

d. Name and Address of the egg producer;

e. The statement "Keep Refrigerated";

f. The statement "SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria: Keep eggs refrigerated, cook eggs until yolks are firm, and cook foods containing eggs thoroughly."

g. Domesticated chicken hen eggs are subject to Grading. Quality designations and sizing weight ranges are determined by candling and weighing. (USDA Egg Grading Manual)

h. If the eggs are ungraded and not weighed, the packages/cartons shall not be labeled with a grade or size.

i. A "Pull Date" or "Best By" date may be stated. It may be hand written on the end of the carton or in a conspicuous location that is clearly discernible. Shell eggs are a perishable food item. The "Pull Date" must first show the month then the day of the month (e.g. Jun 14 or 06 14). Recommended dates are 30 days after production, not to exceed 45 days.

DISTRIBUTION

Transport refrigerated egg packages/cartons in an easily cleanable, portable cooler with frozen gel packs to maintain 45 degrees F or less temperature until eggs are distributed to retail outlet or sold to consumers.

EXEMPTIONS

Producer packer with 3,000 or more bird's who is registered with USDA under the Egg Products Inspection Act.

REGISTRATION

Registration Fees- fee schedule based on yearly production:

6,000 doz. or less-\$100

6,001 to 30,000 doz.-\$200

30,001 to 150,000 doz.-\$300

More than 150,000 doz.-\$400

INSPECTION

All Egg Handlers and Producer Packers are subject to Inspections by the Utah Department of Agriculture and Food.

KEY: food inspections

Date of Enactment or Last Substantive Amendment: November 15, 2013

Notice of Continuation: January 24, 2011

Authorizing, and implemented or Interpreted Law: 4-4-2

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <http://www.rules.utah.gov/publicat/code.htm>. The rule text may also be inspected at the agency or the Division of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

Education, Administration **R277-497** School Grading System

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 38109
FILED: 11/08/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 53A-1-1113 directs the Utah State Board of Education (Board) to adopt rules to implement a school grading system, and Subsection 53A-1-401(3) allows the Board to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides standards and procedures for local education agencies to report school data through a school grading system. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 11/08/2013

Education, Administration **R277-704**

Financial and Economic Literacy: Integration into Core Curriculum and Financial and Economic Literacy Student Passports

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 38110
FILED: 11/08/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-401(3) permits the Utah State Board of Education to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comment has been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides procedures for development and promotion of a financial and economic literacy student passport model. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

EDUCATION
ADMINISTRATION
250 E 500 S
SALT LAKE CITY, UT 84111-3272
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carol Lear by phone at 801-538-7835, by FAX at 801-538-7768, or by Internet E-mail at carol.lear@schools.utah.gov

AUTHORIZED BY: Carol Lear, Director, School Law and Legislation

EFFECTIVE: 11/08/2013

Labor Commission, Adjudication

R602-4

Procedures for Termination of Temporary Total Disability Compensation Pursuant to Reemployment Under Section 34A-2-410.5

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 38115
FILED: 11/08/2013

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 34A-1-104(1) and Section 34A-1-304 authorize the Labor Commission to adopt rules and conduct adjudicative proceedings relating to the administration of the Utah Workers' Compensation Act. Section 34A-2-410.5 of the Act provides a means for an employer or its insurance carrier to request Labor Commission permission to reduce or terminate an injured worker's temporary total disability compensation. In order to administer an orderly adjudication system, it is necessary for the Commission to establish rules that govern the adjudication of such a request.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during and since the last five-year review of the rule from interested persons.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule remains necessary in order to govern the adjudication of an employer's or insurance carrier's request to reduce or terminate an injured worker's temporary total disability compensation. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

LABOR COMMISSION
ADJUDICATION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Heather Gunnarson by phone at 801-536-7928, by FAX at 801-530-6333, or by Internet E-mail at hgunnarson@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 11/08/2013

Labor Commission, Adjudication
R602-5
Procedures for Resolving Disputes
Regarding "Cooperation" and "Diligent
Pursuit" Under Subsection 34A-2-
413(6)(e)(iii) and Subsection 34A-2-
413(9) Consistent with Utah
Administrative Code Subsection R612-
1-10(D)(4)

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION

DAR FILE NO.: 38112
 FILED: 11/08/2013

NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 34A-1-104(1) and Section 34A-1-304 authorize the Labor Commission to adopt rules and conduct adjudicative proceedings relating to the administration of the Utah Workers' Compensation Act. Subsection 34A-2-413(6)(e)(iii) of the Act requires an administrative law judge to issue a decision on a claim for permanent total disability benefits based on an employer's failure to pursue a reemployment plan. Subsection 34A-2-413(9) of the Act requires an administrative law judge to dismiss a claim for permanent total disability benefits based on an employee's failure to cooperate with an approved reemployment plan. In order to administer an orderly adjudication system, it is necessary for the Commission to establish procedural requirements for hearings related to an employer's failure to pursue a reemployment plan or an employee's failure to cooperate with a reemployment plan.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during and since the last five-year review of the rule from interested persons.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule remains necessary in order to govern the hearing process for decisions related to an employer's failure to pursue a reemployment plan or an employee's failure to cooperate with a reemployment plan. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 LABOR COMMISSION
 ADJUDICATION
 HEBER M WELLS BLDG
 160 E 300 S
 SALT LAKE CITY, UT 84111-2316
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Heather Gunnarson by phone at 801-536-7928, by FAX at 801-530-6333, or by Internet E-mail at hgunnarson@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 11/08/2013

Labor Commission, Adjudication
R602-6
Procedures Applicable for Approval of
Settlement Agreements in Workers'
Compensation

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION

DAR FILE NO.: 38108
 FILED: 11/08/2013

NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 34A-1-104(1) and Section 34A-1-304 authorize the Labor Commission to adopt rules and conduct adjudicative proceedings relating to the administration of the Utah Workers' Compensation Act. Section 34A-2-420 of the Act required the Commission to review all settlement or commutation agreements for workers' compensation claims or occupational disease benefits. It also grants the Commission the discretion to approve such agreements. In order to administer an orderly adjudication system, it is necessary for the Commission to establish the procedural requirements for Commission approval of these agreements.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during and since the last five-year review of the rule from interested persons.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule remains necessary in order to govern the procedural requirements for Commission approval of settlement or commutation agreements. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

LABOR COMMISSION
ADJUDICATION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Heather Gunnarson by phone at 801-536-7928, by FAX at 801-530-6333, or by Internet E-mail at hgunnarson@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 11/08/2013

**Public Safety, Fire Marshal
R710-13**

**Reduced Cigarette Ignition Propensity
and Firefighter Protection Act**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 38131
FILED: 11/13/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Pursuant to Subsection 53-7-407(1) the state fire marshal may promulgate rules and regulations necessary to effectuate the purposes of the effect of part on the Model Tobacco Settlement Act and Tobacco Tax and Licensing Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE

RULE, IF ANY: The continuation of this rule is necessary to ensure proper testing and evaluation of "branding" cigarettes to be sold in retail situations around the state, and ensure that such cigarettes are not a threat to enhance ignition of combustible material, causing potential loss of life and property. As of 2012, all 50 states in the Union have adopted similar statutes involving the Model Tobacco Settlement Act, and the Cigarette and Tobacco Tax and Licensing Act.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

PUBLIC SAFETY
FIRE MARSHAL
ROOM 302
5272 S COLLEGE DR
MURRAY, UT 84123-2611
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Coy Porter by phone at 801-284-6358, by FAX at 801-284-6351, or by Internet E-mail at coyporter@utah.gov

AUTHORIZED BY: Coy Porter, State Fire Marshal

EFFECTIVE: 11/13/2013

**Public Safety, Peace Officer Standards
and Training
R728-503**

**Utah Minimum Standards for All
Emergency Pursuit Policies to be
Adopted by Public Agencies that
Operate Authorized Emergency Pursuit
Vehicles**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 38128
FILED: 11/12/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized in Subsection 41-6a-212(5) of the Utah Code. The code states that "the Department of Public Safety shall make rules providing minimum standards for all emergency pursuit policies that are adopted by public agencies authorized to operate emergency pursuit vehicles."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides the minimum standards for all emergency pursuit policies, and provides the necessary framework for all public safety agencies in the State of Utah to create, compare and review policy and procedure pertaining to pursuits.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

PUBLIC SAFETY
PEACE OFFICER STANDARDS AND TRAINING
410 W 9800 S
SANDY, UT 84070
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Wade Breur by phone at 801-256-2329, or by Internet E-mail at wbreur@utah.gov

AUTHORIZED BY: Scott Stephenson, Director

EFFECTIVE: 11/12/2013

**Public Service Commission,
Administration
R746-360**

**Universal Public Telecommunications
Service Support Fund**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 38136
FILED: 11/13/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 54-8b-15 requires the Public Service Commission (PSC) to establish rules governing the administration of the Universal Public Telecommunications Service Support Fund. This rule provides for the governance, administration and maintenance of the fund and establishes its revenue sources and

disbursement procedures to support residential local access networks. All qualifying telecommunications corporations are able to draw from the fund, which collects and distributes funds in a nondiscriminatory and a competitively and technologically neutral way.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Although no comments were submitted to the Commission in the last five years, some amendments to the rule were made. No comments were received on any of the following amendments: In March 2009 an amendment was made for surcharges to be remitted monthly from entities that average \$10 or more per month in surcharge collections. Surcharges less than \$10 per month should be remitted semi-annually. In July 2009 an amendment was made to reduce the surcharge from 0.5 percent to 0.25 percent. In August 2010 an amendment was made to define how the PSC shall calculate the "weighted average rate of return on capital" to be used in determining the Incumbent "total embedded costs." In October 2010 an amendment deleted the word "September" from the rule to eliminate potential confusion about the identity of the report to which the rule refers. Subsection R746-360-8 (A)(1)(a)(iii) mistakenly referred to a "September" filing of FCC Form 492A. In June 2011 an amendment was made to increase the surcharge from 0.25 to 1 percent.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary to allow governance, administration, and maintenance of the fund and to establish its revenue sources and disbursement procedures. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

PUBLIC SERVICE COMMISSION
ADMINISTRATION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Jordan White by phone at 801-530-6712, or by Internet E-mail at jordanwhite@utah.gov
◆ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

AUTHORIZED BY: Jordan White, Legal Counsel

EFFECTIVE: 11/13/2013

School and Institutional Trust Lands,
Administration
R850-61
Native American Grave Protection and
Repatriation

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 38138
FILED: 11/13/2013

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 53C-1-302(1)(a)(ii) and 53C-2-201(1)(a) authorize the Director of the School and Institutional Trust Lands Administration to prescribe the management of cultural resources on trust lands. Subsection 53C-1-201(5)(b) directs the agency to provide for the ownership and control of Native American remains as defined in Section 9-9-402, when they are discovered on trust lands.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: As the agency continues to develop various uses for the lands granted to the various trusts, proper handling of cultural resources located on those trust lands is of great importance. The need for this rule outlining the manner by which the agency provides for the ownership and control of Native American remains discovered on trust lands continues to be of great importance. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION
ROOM 500
675 E 500 S
SALT LAKE CITY, UT 84102-2818
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Kim Christy by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

AUTHORIZED BY: Kevin Carter, Director

EFFECTIVE: 11/13/2013

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Division of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Agriculture and Food

Regulatory Services

No. 37992 (AMD): R70-330. Raw Milk for Retail

Published: 10/01/2013

Effective: 11/13/2013

Commerce

Occupational and Professional Licensing

No. 37965 (AMD): R156-61. Psychologist Licensing Act Rule

Published: 10/01/2013

Effective: 11/07/2013

Education

Administration

No. 37998 (AMD): R277-106. Utah Professional Practices Advisory Commission Appointment Process

Published: 10/01/2013

Effective: 11/07/2013

No. 37999 (AMD): R277-113. LEA Fiscal Policies and Accountability

Published: 10/01/2013

Effective: 11/07/2013

No. 38000 (REP): R277-402. Online Testing

Published: 10/01/2013

Effective: 11/07/2013

No. 38001 (AMD): R277-403. Student Reading Proficiency and Notice to Parents

Published: 10/01/2013

Effective: 11/07/2013

No. 38002 (AMD): R277-404. Requirements for Assessments of Student Achievement

Published: 10/01/2013

Effective: 11/07/2013

No. 38003 (REP): R277-405. Requirements for Assessment Pilot Programs

Published: 10/01/2013

Effective: 11/07/2013

No. 38004 (REP): R277-473. Testing Procedures

Published: 10/01/2013

Effective: 11/07/2013

No. 38005 (AMD): R277-477-4. Distribution of Funds - Determination of Proportionate Share

Published: 10/01/2013

Effective: 11/07/2013

No. 38006 (AMD): R277-502. Educator Licensing and Data Retention

Published: 10/01/2013

Effective: 11/07/2013

No. 38007 (AMD): R277-705. Secondary School Completion and Diplomas

Published: 10/01/2013

Effective: 11/07/2013

Environmental Quality

Air Quality

No. 37903 (AMD): R307-110-10. Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter

Published: 09/01/2013

Effective: 11/07/2013

No. 37904 (AMD): R307-110-36. Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County

Published: 09/01/2013

Effective: 11/07/2013

Drinking Water

No. 37858 (AMD): R309-300. Certification Rules for Water Supply Operators

Published: 08/01/2013

Effective: 11/13/2013

No. 37859 (AMD): R309-305. Certification Rules for Backflow Technicians

Published: 08/01/2013

Effective: 11/13/2013

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 37976 (AMD): R414-1-5. Incorporations by Reference

Published: 10/01/2013

Effective: 11/07/2013

Human Services

Substance Abuse and Mental Health, State Hospital

No. 37969 (AMD): R525-4. Visitors

Published: 10/01/2013

Effective: 11/07/2013

Natural Resources

Wildlife Resources

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Published: 10/01/2013

Effective: 11/07/2013

No. 37978 (AMD): R657-10. Taking Cougar

Published: 10/01/2013

Effective: 11/07/2013

No. 37977 (AMD): R657-11. Taking Furbearers

Published: 10/01/2013

Effective: 11/07/2013

No. 37980 (AMD): R657-52. Commercial Harvesting of Brine Shrimp and Brine Shrimp Eggs

Published: 10/01/2013

Effective: 11/07/2013

No. 37981 (AMD): R657-60. Aquatic Invasive Species Interdiction

Published: 10/01/2013

Effective: 11/07/2013

No. 37979 (NEW): R657-66. Military Installation Permit Program

Published: 10/01/2013

Effective: 11/07/2013

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No. 38008 (R&R): R686-100. Professional Practices Advisory Commission, Rules of Procedure: Complaints and Hearings

Published: 10/01/2013

Effective: 11/07/2013

No. 38009 (NEW): R686-101. UPPAC Hearing Procedures and Reports

Published: 10/01/2013

Effective: 11/07/2013

No. 38010 (NEW): R686-102. Request for Licensure Reinstatement and Reinstatement Procedures

Published: 10/01/2013

Effective: 11/07/2013

No. 38011 (AMD): R686-103. Utah Professional Practices Advisory Commission Review of License Due to Background Check Offenses

Published: 10/01/2013

Effective: 11/07/2013

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Published: 09/01/2013

Effective: 11/07/2013

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BY AGENCY (CODE NUMBER)
AND
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The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2013 through November 15, 2013. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to the Division of Administrative Rules (801-538-3764).

A copy of the **RULES INDEX** is available for public inspection at the Division of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

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ABBREVIATIONS

AMD = Amendment (Proposed Rule) CPR = Change in Proposed Rule EMR = 120-Day (Emergency) Rule EXD = Expired Rule EXP = Expedited Rule EXT = Five-Year Review Extension GEX = Governor's Extension	LNR = Legislative Nonreauthorization NEW = New Rule (Proposed Rule) NSC = Nonsubstantive Rule Change R&R = Repeal and Reenact (Proposed Rule) REP = Repeal (Proposed Rule) 5YR = Five-Year Notice of Review and Statement of Continuation
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ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

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	37464	R671-519	AMD	05/22/2013	2013-8/35
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Environmental Quality, Solid and Hazardous Waste	37314	R315-12	AMD	04/25/2013	2013-5/101
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	36554	R305-6	CPR	01/31/2013	2013-1/32	
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	36480	R307-303	CPR	04/10/2013	2013-5/186	
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Pardons (Board Of), Administration	37439	R671-312A	NEW	05/22/2013	2013-8/18	
	37440	R671-312B	NEW	05/22/2013	2013-8/20	
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Education, Administration	37626	R277-104	5YR	05/15/2013	2013-11/97	
Human Services, Substance Abuse and Mental Health, State Hospital	37213	R525-7	5YR	01/23/2013	2013-4/58	
	37972	R525-7	NSC	09/30/2013	Not Printed	
Public Service Commission, Administration	37868	R746-500	5YR	07/31/2013	2013-16/69	
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	37784	R309-210	NSC	07/19/2013	Not Printed	
	37788	R309-215	NSC	07/19/2013	Not Printed	
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<u>concealed firearm permits</u>						
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	37972	R525-7	NSC	09/30/2013	Not Printed	
<u>concrete</u>						
Environmental Quality, Air Quality	36740	R307-312	NEW	02/01/2013	2012-19/45	
	36740	R307-312	CPR	02/01/2013	2013-1/47	
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Commerce, Real Estate	37677	R162-2e	AMD	08/28/2013	2013-12/19	
Professional Practices Advisory Commission, Administration	37243	R686-100	5YR	02/01/2013	2013-4/60	
	38008	R686-100	R&R	11/07/2013	2013-19/101	
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Pardons (Board Of), Administration	37353	R671-520	5YR	02/15/2013	2013-5/217	
	37465	R671-520	AMD	05/22/2013	2013-8/36	

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	37740	R277-487	AMD	08/07/2013	2013-13/43
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Environmental Quality, Administration	36776	R305-9	NEW	02/22/2013	2012-19/28
	36776	R305-9	CPR	02/22/2013	2013-2/94
Human Resource Management, Administration	37568	R477-9	AMD	07/01/2013	2013-10/170
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Human Services, Aging and Adult Services	37228	R510-104-11	AMD	04/15/2013	2013-4/18
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<u>consumer confidence report</u>					
Environmental Quality, Drinking Water	37787	R309-225	NSC	07/19/2013	Not Printed
<u>consumer products</u>					
Environmental Quality, Air Quality	37276	R307-357	NEW	08/01/2013	2013-5/22
	37276	R307-357	CPR	08/01/2013	2013-13/213
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	37432	R436-14	5YR	03/21/2013	2013-8/61
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	38030	R251-105	5YR	09/30/2013	2013-20/50
	37828	R251-111	EXD	07/09/2013	2013-15/137
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	37216	R414-303	5YR	01/23/2013	2013-4/53
	37301	R414-303	AMD	04/17/2013	2013-5/179
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	37227	R722-320	NSC	02/15/2013	Not Printed
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	37994	R277-705	5YR	09/13/2013	2013-19/150
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	37620	R70-330	EMR	05/14/2013	2013-11/84
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	37739	R277-484	AMD	08/07/2013	2013-13/39

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	37702	R307-101-2	NSC	07/09/2013	Not Printed
	37582	R307-101-3	AMD	08/08/2013	2013-11/24
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	37104	R861-1A-26	AMD	02/21/2013	2013-1/15	
	37935	R861-1A-29	AMD	10/24/2013	2013-18/40	
	37106	R861-1A-37	AMD	02/21/2013	2013-1/17	
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	37245	R539-1-3	AMD	04/18/2013	2013-4/21	
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	37919	R539-15	REP	10/10/2013	2013-17/36	
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Human Services, Aging and Adult Services	37277	R510-105	5YR	02/08/2013	2013-5/210	
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	38046	R277-609-3	NSC	10/30/2013	Not Printed	
Professional Practices Advisory Commission, Administration	37637	R686-101	5YR	05/16/2013	2013-12/57	
	37674	R686-101	AMD	09/10/2013	2013-12/33	
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	37675	R686-102	AMD	09/10/2013	2013-12/34	
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	36962	R58-21	AMD	01/04/2013	2012-22/16

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Environmental Quality, Drinking Water	37788	R309-215	NSC	07/19/2013	Not Printed
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	38046	R277-609-3	NSC	10/30/2013	Not Printed

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Science Technology and Research Governing Auth., Administration	37964	R856-2	NSC	09/30/2013	Not Printed
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	37754	R156-1	AMD	08/22/2013	2013-14/21
	37199	R156-1-102	AMD	03/11/2013	2013-3/2

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Health, Family Health and Preparedness, Licensing	37442	R432-31	AMD	06/07/2013	2013-8/12
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	37503	R512-201	5YR	04/08/2013	2013-9/36
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	37639	R512-300	5YR	05/16/2013	2013-12/55
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	37783	R309-115	NSC	07/19/2013	Not Printed
	37789	R309-200	NSC	07/19/2013	Not Printed
	37786	R309-205	NSC	07/19/2013	Not Printed
	37784	R309-210	NSC	07/19/2013	Not Printed
	37788	R309-215	NSC	07/19/2013	Not Printed
	37785	R309-220	NSC	07/19/2013	Not Printed
	37787	R309-225	NSC	07/19/2013	Not Printed
	37858	R309-300	AMD	11/13/2013	2013-15/30
	37859	R309-305	AMD	11/13/2013	2013-15/36
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	37725	R309-511	AMD	08/28/2013	2013-13/81
	37726	R309-515	AMD	08/28/2013	2013-13/84
	36562	R309-515-6	AMD	01/16/2013	2012-16/66
	36562	R309-515-6	CPR	01/16/2013	2012-23/70
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	37728	R309-525	AMD	08/28/2013	2013-13/103
	37729	R309-530	AMD	08/28/2013	2013-13/114
	37730	R309-535	AMD	08/28/2013	2013-13/117
	37731	R309-540	NSC	07/09/2013	Not Printed
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	37721	R309-600	NSC	07/09/2013	Not Printed
	37720	R309-605	NSC	07/09/2013	Not Printed
	37747	R309-800	NSC	07/09/2013	Not Printed
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Human Resource Management, Administration	37573	R477-14	AMD	07/01/2013	2013-10/178
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	37892	R398-20	5YR	08/02/2013	2013-17/50
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	37736	R277-422-3	AMD	08/07/2013	2013-13/29
	37885	R277-470	5YR	08/02/2013	2013-17/46
	37923	R277-470	AMD	10/08/2013	2013-17/7
	37405	R277-709	5YR	03/12/2013	2013-7/64
	37244	R277-709-3	NSC	02/15/2013	Not Printed
Health, Family Health and Preparedness, Children with Special Health Care Needs	37827	R398-20	EXT	07/09/2013	2013-15/135
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Regents (Board Of), Administration	37553	R765-555	5YR	04/29/2013	2013-10/217
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	37415	R277-702	AMD	05/16/2013	2013-7/26
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	38006	R277-502	AMD	11/07/2013	2013-19/32
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	37359	R277-517-5	NSC	03/15/2013	Not Printed
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	37366	R317-1-1	CPR	08/19/2013	2013-14/92
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	37396	R156-82	NSC	04/01/2013	Not Printed	
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	37411	R426-2	NEW	05/30/2013	2013-7/32	
	37682	R426-2	NEW	10/18/2013	2013-13/133	
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	37267	R307-403-11	CPR	07/01/2013	2013-11/77	
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	37479	R649-6	5YR	04/02/2013	2013-9/43	
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	37825	R649-9-10	NSC	07/26/2013	Not Printed	
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	37592	R657-34	5YR	05/06/2013	2013-11/103
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	37894	R657-57	5YR	08/05/2013	2013-17/58
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