

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Kenneth A. Hansen, Director
Nancy L. Lancaster, Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah State Government. The Department of Administrative Services, Division of Administrative Rules produces the *Bulletin* under authority of Section 63-46a-10, *Utah Code Annotated* 1953.

Inquiries concerning administrative rules or other contents of the *Bulletin* may be addressed to the responsible agency or to: Division of Administrative Rules, 4120 State Office Building, Salt Lake City, Utah 84114, telephone (801) 538-3218, FAX (801) 538-1773. To view rules information, and on-line versions of the division's publications, visit: <http://www.rules.utah.gov/>

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)*. The *Digest* is available by E-mail or over the Internet. Visit <http://www.rules.utah.gov/publicat/digest.htm> for additional information.

Division of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Governor's Executive Order 2007-0005: Constituting the Governor's Child and Family Cabinet Council

EXECUTIVE ORDER

Whereas, the children of Utah are our future and investing in their general welfare, safety and livelihood are of utmost priority;

Whereas, the children of Utah are our future work force in whom we will rely on to keep Utah competitive in the global economy;

Whereas, the protection of children and strengthening of families is of concern and responsibility of all Utah citizens;

Whereas, school readiness or students prepared entering kindergarten ready to learn are more likely to be reading at grade level by the end of third grade, are more likely to have successful school experiences and are more likely to graduate from high school and participate in college;

Whereas, statistics show the threat to Utah's children and families, which cross over several program lines and consume considerable amounts of resources to combat, is real. Statistics show:

- the Division of Child and Family Services receives 41.8 abuse allegations per 1,000 Utah children,
- domestic violence related child abuse continues to be the most prevalent form of child abuse in Utah,
- the incidence of sexual abuse of children follows as the second most common form of abuse,
- 60% of children in the Division of Child and Family Services' custody are there due to substance abuse by the caregiver as a contributing factor,
- 87% of Utah victims of rape experienced their first sexual assault before age 18;

Whereas, domestic violence is defined as a pattern of coercive tactics that can include physical, psychological, sexual and emotional abuse, perpetrated by one person against a cohabitant with the goal of control and power over the victim;

Whereas, sexual violence is defined as one person forcing another person to have sex or perform sexual acts through coercion, manipulation, threats, physical restraint or physical violence;

Whereas, existing programs that protect families and maintain child safety and well being are dependent on broad community support;

Whereas, early childhood programs and services are critical to the healthy development of children and such programs can serve as an early warning system to respond and intervene before problems occur,

Whereas, a proactive and coordinated approach to issues surrounding children and families is needed statewide;

NOW THEREFORE, I, Jon M. Huntsman, Jr., Governor of the State of Utah, by virtue of the power vested in me by the Constitution and the Laws of the State of Utah, hereby constitute a council to be known as the Governor's Child and Family Cabinet Council and hereby appoint the following persons to that council:

- (a) the Governor of Utah
- (b) the Legal Counsel to the Governor of Utah
- (c) the Executive Director of Department of Human Services
- (d) the Executive Director of Department of Health
- (e) the Executive Director of Department of Workforce Services

- (f) the Executive Director of Department of Corrections
- (g) the Director of Commission on Criminal and Juvenile Justice
- (h) the Director for Education to the Governor of Utah
- (i) the Administrator for Administrative Office of the Courts
- (j) the Attorney General of Utah
- (k) the Director of the Guardian Ad Litem
- (l) a community representative with broad social services experience
- (m) a representative from Primary Children Medical Center

Members serving on the council from the Executive Branch shall serve so long as they occupy the indicated position in state government. If their employment in state government in the indicated capacity is terminated, their membership on the Council shall automatically be terminated.

Two members shall be members of the Utah State Legislature, one from each House, appointed respectively by the Speaker of the House and the President of the Senate.

(a) the Legislative members shall be appointed for a term of 2 years and may be reappointed for one succeeding two-year term.

The Governor shall appoint a chair of the Cabinet Council from among its members. The Cabinet Council may establish additional subcommittees as the council deems necessary.

The Cabinet Council shall meet at a minimum twice per year to hear reports on the status of Utah's children and families.

Existing councils on substance abuse prevention, domestic violence, sexual violence, child maltreatment, early childhood education and intervention and FACT shall provide an annual written report to the Cabinet Council on the outcomes regarding children and families.

The Cabinet Council's primary functions shall be as follows:

- (a) inventory current efforts and common outcomes among programs dealing with child maltreatment and family dysfunction, rape and sexual assault of children and adults, domestic violence, substance abuse prevention and early childhood education and intervention,
- (b) inventory funding stream requirements,
- (c) inventory and analyze similar prevention integration efforts in other states,
- (d) develop integrated policies and procedures reflecting best practices across funding streams,
- (e) identify funding streams that address cross cutting prevention,
- (f) identify new funding sources for one evidence based cross cutting prevention model in Utah,
- (g) issue recommendations regarding resource allocation to maintain positive outcomes for children;
- (h) receive reports from the Department of Human Services' Office of Service Review on child and family status and review data on child well being in Utah, including annual written reports on the results of the Division of Child and Family Services' qualitative and quantitative review results regarding care, permanency and other child outcomes;
- (j) receive annual written reports on fatalities regarding trends and analysis on decreasing fatalities relating to children and/or abusive/violent acts;

(k) the Cabinet Council shall track child and family well-being and outcomes, review progress or decline of outcomes and work toward possible solutions.

IN WITNESS WHEREOF, I have here unto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 5th day of June, 2007.

(State Seal)

Jon M. Huntsman, Jr.
Governor

Attest:

Gary R. Herbert
Lieutenant Governor

2007/0005

Governor's Executive Order 2007-0006: Wildland Fire Management

EXECUTIVE ORDER

Wildland Fire Management

WHEREAS, the danger from wildland fires is extremely high throughout the State of Utah;

WHEREAS, numerous wildland fires are burning and continue to burn in various areas statewide and present a serious threat to public safety, property, natural resources and the environment;

WHEREAS, some of the areas are extremely remote and inaccessible and the situation has the potential to greatly worsen if left unattended;

WHEREAS, immediate action is required to suppress the fires and mitigate post-burn flash floods to protect public safety, property, natural resources and the environment; and,

WHEREAS, these conditions do create a disaster emergency within the intent of the Disaster Response and Recovery Act of 1981;

NOW, THEREFORE, I, Jon M. Huntsman, Jr., Governor of the State of Utah, by virtue of the power vested in me by the Constitution and the laws of the State of Utah do hereby order that:

It is found, determined and declared that a "State of Emergency" exists statewide due to the threat to public safety, property, natural resources and the environment for thirty days, effective as of June 10, 2007, requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

IN WITNESS, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, this 10th day of June 2007.

(State Seal)

Jon M. Huntsman, Jr.
Governor

ATTEST:

Gary R. Herbert
Lieutenant Governor

2007/0006

Governor's Proclamation: Calling the Fifty-Seventh Legislature into a Third Extraordinary Session

PROCLAMATION

WHEREAS, since the close of the 2007 General Session of the 57th Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

WHEREAS, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Legislature in Extraordinary Session;

NOW, THEREFORE, I, JON M. HUNTSMAN, JR., Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and Laws of the State of Utah, do by this Proclamation call the Senate only of the 57th Legislature into a Third Extraordinary Session at the State Capitol in Salt Lake City, Utah, on the 20th day of June, 2007, at 12:00 noon, for the following purpose:

For the Senate to consent to appointments made by the Governor to positions within state government of the State of Utah since the close of the 2007 General Session of the Legislature of the State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Salt Lake Capitol Complex in Salt Lake City, Utah, this 5th day of June, 2007.

(State Seal)

Jon M. Huntsman, Jr.
Governor

Gary R. Herbert
Lieutenant Governor

NOTICES OF PROPOSED RULES

A state agency may file a PROPOSED RULE when it determines the need for a new rule, a substantive change to an existing rule, or a repeal of an existing rule. Filings received between May 16, 2007, 12:00 a.m., and June 1, 2007, 11:59 p.m. are included in this, the June 15, 2007, 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 (e.g., example). Deletions made to existing rules are struck out with brackets surrounding them (e.g., [~~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 printed. If a PROPOSED RULE is too long to print, the Division of Administrative Rules will 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 July 16, 2007. The agency may accept comment beyond this date and will list 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 to hold a hearing on a specific PROPOSED RULE. Section 63-46a-5 requires that a hearing request be received "in writing not more than 15 days after the publication date of the PROPOSED RULE."

From the end of the public comment period through October 13, 2007, 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 or a CHANGE IN PROPOSED RULE, the PROPOSED RULE filing lapses and the agency must start the process over.

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 63-46a-4; and Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5, R15-4-9, and R15-4-10.

The Proposed Rules Begin on the Following Page.

Administrative Services, Finance
R25-7-6
Travel-Related Reimbursements for
State Employees

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 29953
 FILED: 05/16/2007, 14:00

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is amended to change the deduction allowed for dinner in premium cities from \$31 to \$26.

SUMMARY OF THE RULE OR CHANGE: The deduction allowed for dinner in premium cities is changed from \$31 to \$26.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63A-3-107 and 63A-3-106

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There will be a \$5 savings per dinner in premium cities.
- ❖ **LOCAL GOVERNMENTS:** Rate changes for State travel are only relevant to employees of the State of Utah or persons traveling on behalf of the State of Utah. Travel expenses are recorded in state budgets and have no relevance or impact to local branches of government.
- ❖ **OTHER PERSONS:** This rule will affect state employees and those traveling on behalf of the State of Utah. Persons traveling for the State who are not employees of the State will receive a small increase in travel rates. However, this money will come from state budgets and will not have any financial impact outside of state budgets.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with Section R25-7-6.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Amendments to Rule R25-7 apply only to state agencies and state employees and have no impact on businesses. Kimberly K. Hood, Executive Director

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

ADMINISTRATIVE SERVICES
FINANCE
 Room 2110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY UT 84114-1201, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Marilee Richins at the above address, by phone at 801-538-3450, by FAX at 801-538-3244, or by Internet E-mail at MPRICHINS@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2007

AUTHORIZED BY: Kimberly K Hood, Executive Director

R25. Administrative Services, Finance.
R25-7. Travel-Related Reimbursements for State Employees.
R25-7-6. Reimbursement for Meals.

- (1) State employees who travel on state business may be eligible for a meal reimbursement.
- (2) The reimbursement will include tax, tips, and other expenses associated with the meal.
- (3) Allowances for in-state travel differ from those for out-of-state travel.
 - (a) The daily travel meal allowance for in-state travel is \$35.00 and is computed according to the rates listed in the following table.

TABLE 1

In-State Travel Meal Allowances

Meals	Rate
Breakfast	\$8.00
Lunch	\$11.00
Dinner	\$16.00
Total	\$35.00

- (b) The daily travel meal allowance for out-of-state travel is \$43.00 and is computed according to the rates listed in the following table.

TABLE 2

Out-of-State Travel Meal Allowances

Meals	Rate
Breakfast	\$10.00
Lunch	\$13.00
Dinner	\$20.00
Total	\$43.00

- (4) When traveling to premium cities (New York, Los Angeles, Chicago, San Francisco, Washington DC, Boston, San Diego, Orlando, Atlanta, Baltimore, and Arlington), the traveler may choose to accept the per diem rate for out-of-state travel or to be reimbursed at the actual meal cost, with original receipts, up to \$57 per day.
 - (a) The traveler will qualify for premium rates on the day the travel begins and/or the day the travel ends only if the trip is of sufficient duration to qualify for all meals on that day.
 - (b) Complimentary meals of a hotel, motel and/or association and meals included in registration costs are deducted from the \$57 premium allowance as follows:
 - (i) If breakfast is provided deduct \$14, leaving a premium allowance for lunch and dinner of actual up to \$43.
 - (ii) If lunch is provided deduct \$17, leaving a premium allowance for breakfast and dinner of actual up to \$40.
 - (iii) If dinner is provided deduct ~~\$31~~ \$26, leaving a premium allowance for breakfast and lunch of actual up to \$31.

(c) The traveler must use the same method of reimbursement for an entire day.

- (d) Actual meal cost includes tips.
- (e) Alcoholic beverages are not reimbursable.

(5) When traveling in foreign countries, the traveler may choose to accept the per diem rate for out-of-state travel or to be reimbursed at the reasonable, actual meal cost, with original receipts.

(a) The traveler may combine the reimbursement methods during a trip; however, he must use the same method of reimbursement for an entire day.

- (b) Actual meal cost includes tips.
- (c) Alcoholic beverages are not reimbursable.

(6) The meal reimbursement calculation is comprised of three parts:

(a) The day the travel begins. The traveler's entitlement is determined by the time of day he leaves his home base (the location the employee leaves from and/or returns to), as illustrated in the following table.

TABLE 3

The Day Travel Begins

1st Quarter a.m. 12:01-6:00 *B, L, D In-State	2nd Quarter a.m. 6:01-noon *L, D	3rd Quarter p.m. 12:01-6:00 *D	4th Quarter p.m. 6:01-midnight *no meals
\$35.00	\$27.00	\$16.00	\$0
Out-of-State \$43.00	\$33.00	\$20.00	\$0

*B=Breakfast, L=Lunch, D=Dinner

(b) The days at the location.

(i) Complimentary meals of a hotel, motel, and/or association and meals included in the registration cost are deducted from the total daily meal allowance.

(ii) Meals provided on airlines will not reduce the meal allowance.

(c) The day the travel ends. The meal reimbursement the traveler is entitled to is determined by the time of day he returns to his home base, as illustrated in the following table.

TABLE 4

The Day Travel Ends

1st Quarter a.m. 12:01-6:00 *no meals In-State	2nd Quarter a.m. 6:01-noon *B	3rd Quarter p.m. 12:01-7:00 *B, L	4th Quarter p.m. 7:01-midnight *B, L, D
\$0	\$8.00	\$19.00	\$35.00
Out-of-State \$0	\$10.00	\$23.00	\$43.00

*B=Breakfast, L=Lunch, D=Dinner

(7) An employee may be authorized by his Department Director or designee to receive a meal allowance when his destination is at least 100 miles from his home base and he does not stay overnight.

(a) Breakfast is paid when the employee leaves his home base before 6:01 a.m.

(b) Lunch is paid when the trip meets one of the following requirements:

(i) The employee is on an officially approved trip that warrants entitlement to breakfast and dinner.

(ii) The employee leaves his home base before 10 a.m. and returns after 2 p.m.

(iii) The Department Director provides prior written approval based on circumstances.

(c) Dinner is paid when the employee leaves his home base and returns after 7 p.m.

(d) The allowance is not considered an absolute right of the employee and is authorized at the discretion of the Department Director or designee.

KEY: air travel, per diem allowances, state employees, transportation

Date of Enactment or Last Substantive Amendment: 2007

Notice of Continuation: May 1, 2003

Authorizing, and Implemented or Interpreted Law: 63A-3-107; 63A-3-106



Agriculture and Food, Regulatory Services

R70-550

Utah Inland Shellfish Safety Program

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 29970

FILED: 05/25/2007, 13:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule establishes requirements for shellfish distributed from Utah to other states. It is a voluntary program to enable Utah companies to distribute shellfish to other states. This program will promote shellfish safety within the state of Utah and provide for industry participation in the National Shellfish Safety Program via the Interstate Shellfish Shippers Conference. The program provides for all phases of shellfish safety.

SUMMARY OF THE RULE OR CHANGE: This new rule establishes the program that will promote shellfish safety within the state of Utah and provide for industry participation in the National Shellfish Safety Program via the Interstate Shellfish Shippers Conference. The program provides for all phases of shellfish safety. The Interstate Shellfish Safety Conference Model Code Volume 2003 is adopted by reference.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-5-17

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: The Interstate Shellfish Shipper Model Ordinance, 2003 edition

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** This program is a voluntary program funded completely by user services fees charged to participating firms.

❖ LOCAL GOVERNMENTS: There will be no cost to local government. Local government does not own or sell shellfish. Therefore, local government will not be impacted.

❖ OTHER PERSONS: Standards and regulation set by the National Shellfish Safety Program, Model Ordinance 2003. Enhances marketability of shellfish and shellfish products. It opens up the interstate market for Utah firms and provides a uniform method of regulation. This is a user-funded program with interested firms paying fees for services, certification, and ongoing program management. Fees will be charged in addition to existing registration fees, and will be designed to meet all costs associated with this program. As per Legislative mandate, fees will be proposed and submitted to the Legislature for approval. The Division anticipates the fees charged to participating firms will be offset by marketability of their shellfish products and the opportunity to participate in interstate commerce.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost. Participating firms will be required to pay a user fee to offset the cost of administration of the program. In addition, costs to business which choose to participate may include upgrade of equipment, facility, labeling, and food security.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The Department anticipates the fees charged to participating firms will be offset by enhanced marketability of their shellfish products and the opportunity to participate in interstate commerce and export programs. Only those businesses which participate will incur costs. Leonard M. Blackham, Commissioner

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:
Doug Pearson, Richard W Clark, or Kathleen Mathews at the above address, by phone at 801-538-7144, 801-538-7150, or 801-538-7103, by FAX at 801-538-7169, 801-538-7126, or 801-538-7126, or by Internet E-mail at dpearson@utah.gov, RICHARDWCLARK@utah.gov, or kmathews@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/31/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 08/07/2007

AUTHORIZED BY: Leonard M. Blackham, Commissioner

R70. Agriculture and Food, Regulatory Services.

R70-550. Utah Inland Shellfish Safety Program.

R70-550-1. Authority.

This rule is promulgated by the Division of Regulatory Services, within the Department of Agriculture and Food under authority of Section 4-5-17.

R70-550-2. Adopt by Reference.

Adoption of USPHS Ordinance: National Shellfish Safety Program, Model Ordinance. The Interstate shellfish shipper model ordinance: 203 edition Recommendations of the United States Public Health Service/Food and Drug Administration, is hereby adopted and incorporated by reference within this rule.

KEY: interstate shell fish safety

Date of Enactment or Last Substantive Amendment: 2007

Authorizing, and Implemented or Interpreted Law: 4-5-17



Commerce, Real Estate

R162-205

Residential Mortgage Unprofessional Conduct

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29997

FILED: 05/31/2007, 10:18

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is: 1) to add to the list of unprofessional conduct ordering services from third party service providers such as appraisers, insurance agents, etc. in connection with the origination of residential mortgage loans and then failing to pay for those services; 2) to add a new subsection to the rule setting forth standards of good conduct; and 3) to list in the new Section R162-205-2, the standard for disclosure of licensed status to borrowers and how to document compliance with that standard.

SUMMARY OF THE RULE OR CHANGE: Subsection R162-205-1(205-1-3) is added defining as unprofessional conduct the ordering of mortgage-related services and then failing to pay for those services. A new written disclosure of licensed status will be required, and a mortgage officer will be required to document compliance with this disclosure requirement by placing a copy of the mortgage officer's license and the written disclosure of licensed status in each loan file.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 61-2c-103(3)(d)

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: None--Identifying another type of behavior as "unprofessional conduct" has no impact on the State budget, nor does specifying that a written disclosure of license status must be made to potential borrowers and that documentation related to this disclosure be placed in the loan file.

❖ LOCAL GOVERNMENTS: None--Local governments do not act as mortgage brokers or mortgage loan officers. Therefore, a rule requiring these persons to pay for services ordered has no impact on local governments, nor does a rule requiring written disclosure of licensed status and documentation that the written disclosure has been made.

❖ OTHER PERSONS: The only persons who are affected by defining as unprofessional conduct the failure to pay for mortgage-related services that one has ordered are the mortgage loan officer who has ordered the service and the third-party service provider who has provided the service. The mortgage loan officer is already contractually obligated to pay for services ordered, so this rule change would not impose an additional financial obligation on the mortgage loan officer. The third party service providers may benefit from this rule change because the mortgage officers may be more likely to voluntarily pay them for services ordered. With respect to the change requiring a written disclosure of licensed status and keeping proof of the disclosure in each mortgage loan file, the only persons who would be affected by this requirement would be the mortgage entities and mortgage loan officers who would have to comply with this requirement. The requirement would cost them, at most, a few cents on each loan file for the cost of an additional form and a xerox copy of the mortgage officer's license.

COMPLIANCE COSTS FOR AFFECTED PERSONS: As stated above, the only persons who would incur costs to comply with these rule changes would be the mortgage entities or individual mortgage loan officers who would need to make one additional written disclosure to potential borrowers, and who would need to keep a copy of this disclosure and a license copy in each mortgage loan file. The paper costs of this should be minimal, amounting to no more than a few cents for each loan file.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule filing clarifies that failure to pay for mortgage-related services from third party providers constitutes unprofessional conduct. It also adds a requirement for mortgage officers to provide written disclosure of their licensed status to their clients and to maintain a copy of the written disclosure in each loan file. No fiscal impact to businesses is anticipated beyond those discussed in the rule summary. Francine A. Gian, Executive Director

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

COMMERCE
REAL ESTATE
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:

Shelley Wismer at the above address, by phone at 801-366-0145, by FAX at 801-366-0315, or by Internet E-mail at swismer@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/24/2007

AUTHORIZED BY: Derek Miller, Director

R162. Commerce, Real Estate.**R162-205. Residential Mortgage [Unprofessional] Standards of Conduct.****R162-205-1. Residential Mortgage Unprofessional Conduct.**

205.1 Unprofessional conduct includes the following acts:

205.1.1[(+)] conducting the business of residential mortgage lending under any name other than a name under which the entity or individual conducting such business is licensed with the Division;

205.1.2[(+)] failing to remit to [the appropriate] third party service providers the appraisal fees, inspection fees, credit reporting fees, insurance premiums, or similar fees which have been collected from a borrower;

205.1.3 failing to pay to third party service providers the fee for any service ordered by the licensee in connection with the business of residential mortgage loans, unless the potential borrower has contractually agreed to pay the third party service provider directly or unless a good faith dispute exists as to whether the service provided satisfies requirements established by state or federal law;

205.1.4[(+)] charging for services not actually performed;

205.1.5[(+)] charging a borrower more for third party services than the actual cost of those services;

205.1.6[(+)] filling out or altering any Real Estate Purchase Contract or other contract for the sale of real property, or any addenda thereto;

205.1.7[(+)] making any alteration to any appraisal of real property;

205.1.8[(+)] in the case of a principal lending manager, failing to exercise reasonable supervision over the activities of any unlicensed staff of the entity; and

205.1.9[(+)] unless acting as a real estate licensee and not as a mortgage licensee:

[(+)](a) providing a buyer or seller of real estate with comparative market analysis or otherwise assisting a buyer or seller to determine the offering price or sales price of real estate;

[(+)](b) representing or assisting a buyer or seller of real estate in negotiations concerning a possible sale of real estate, except that a mortgage licensee may advise a borrower about the consequences that the terms of a purchase agreement may have on the terms and availability of various mortgage products;

[(+)](c) performing any other acts that require a real estate license under Title 61, Chapter 2;

[(+)](d) advertising the sale of real estate by use of any advertising medium, except that a mortgage licensee may:

[(+)](i) advertise real estate owned by the licensee as a "for sale by owner";

~~(2)~~(ii) provide advertising to a property owner who has not signed an agency agreement with a real estate licensee and is selling the real estate "for sale by owner", so long as the advertising provides clear and distinguishable identification, contact information, function and responsibility of both the property owner and the mortgage licensee; or

~~(3)~~(iii) advertise in conjunction with a real estate brokerage, so long as the advertising provides clear and distinguishable identification, contact information, function and responsibility of both the real estate licensee and the mortgage licensee.

R162-205-2. Residential Mortgage Standards of Practice.

205.2.1 As part of the loan application process, a mortgage officer shall provide a written disclosure to any prospective borrower, which includes the mortgage officer's name, signature, license number, and attestation that the license is active and in good standing, and shall request that the borrower sign a copy of the disclosure acknowledging that this disclosure has been made.

205.2.2 A mortgage officer shall place in every loan file:

(a) a copy of the mortgage officer's license; and

(b) a copy of the written disclosure required by Subsection 205.2.1.

KEY: residential mortgage loan origination

Date of Enactment or Last Substantive Amendment: [~~October 11, 2006~~2007]

Notice of Continuation: December 13, 2006

Authorizing, and Implemented or Interpreted Law: 61-2c-301(1)(k)



**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-10A
Transplant Services Standards**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE No.: 30005
FILED: 05/31/2007, 13:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is needed to clarify Medicaid criteria for transplant services.

SUMMARY OF THE RULE OR CHANGE: This amendment clarifies prior authorization requirements and psychosocial assessment criteria for transplant services.

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

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There is no budget impact because this amendment only clarifies requirements and criteria for transplant services.

❖ LOCAL GOVERNMENTS: There is no budget impact because this amendment only clarifies requirements and criteria for transplant services.

❖ OTHER PERSONS: There is no budget impact because this amendment only clarifies requirements and criteria for transplant services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no budget impact because this amendment only clarifies requirements and criteria for transplant services.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will not have a fiscal impact on business. The changes are to make the rule internally consistent and do not change coverage of these services. David N. Sundwall, MD, Executive Director

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 at the above address, 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 TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2007

AUTHORIZED BY: David N. Sundwall, Executive Director

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

R414-10A. Transplant Services Standards.

R414-10A-6. Prior Authorization.

(1) Prior authorization is required for all transplantation services except for the following transplants:

(a) cornea transplantation.

(b) kidney, heart and liver transplantation performed in a Utah transplant center, which has been Medicare-approved for the last five or more years.

(2) The prior authorization request for transplantation services must be initiated by the client's referring physician. Failure to submit all required information with the prior authorization request will delay processing of the request for transplantation.

(3) The initial request for prior authorization of any transplantation, except heart, liver, cornea, or kidney, must contain all of the following:

(a) A description of the medical condition which necessitates a transplantation.

(b) Transplantation treatment alternatives utilized previous to the transplantation request.

(c) Transplantation treatment alternatives considered and discarded, including discussion of why the alternatives have been discarded.

(d) Comprehensive examination, evaluation and recommendations completed by a board-certified or board-eligible specialist in a field directly related to the client's condition which necessitates the transplantation, such as a nephrologist, gastroenterologist, cardiologist, or hematologist.

(e) Comprehensive psycho-social evaluation of the client must include a comprehensive history regarding substance abuse and compliance with medical treatment.

(f) Psycho-social evaluation of parent(s) or guardian(s) of the client, if the client is less than 18 years of age. The psycho-social evaluation must include a comprehensive history regarding substance abuse, and past and present compliance with medical treatment.

(g) Comprehensive psychiatric evaluation of the client, if the client has a history of mental illness.

(h) Comprehensive psychological or developmental testing, as requested by the Department.

(i) Comprehensive infectious disease evaluation for a client with a recent or current suspected infectious episode.

(j) Documentation by the client's referring physician that a client with a history of substance abuse has successfully completed a substance abuse program or has documented abstinence for a period of at least six months before any transplantation service can be authorized.

(k) At least two negative drug screens within three months of the request date for prior authorization. The Utah Medicaid program requires monthly drug screens until the transplant date or until the transplant is denied if either of the two random drug screens are positive for drug use, past drug screens have been positive for drug use, or the Department requests the monthly screens. If the client has a history of substance abuse that does not include the drugs listed in Subsection R414-10A-2(11), then the drug screens must include the other substance(s) upon drug testing availability.

(l) Hospital and outpatient records for at least the last two years, unless the patient is less than two years of age, in which case all records.

(m) Pretransplant evaluation for a client diagnosed with cancer that includes staging of the cancer, laboratory tests, and imaging studies. A letter documenting that the transplant evaluation has been completed and that all medical records documentation from the evaluation have been transmitted to the Department.

(n) Any other medical evidence needed to evaluate possible contraindications for the type of transplantation being considered. Contraindications are listed in this rule under each organ or transplant type.

(o) The transplant center must document, by a current medical literature review, a one-year survival rate from patients having received transplantation for the age group, specific diagnosis(es), condition and type of transplantation proposed for the client. Survival rate must be calculated by the Kaplan-Meier product-limit method or the actuarial life table method: "Kaplan, G., Meier, P. Non-Parametric estimation from incomplete observations. Journal of American Statistical Association 53:457-481, 1958. Cox, D.R., Oakes, D. Analysis of survival data. Chapman and Hill, 1984." adopted and incorporated by reference. At least ten patients in the appropriate age group must be alive at the end of the one or three year period to

document adequate confidence intervals. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(p) The transplant center must document by a current medical literature review, a one year graft function rate for patients having received pancreas, kidney or small bowel transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. Graft function rate must be calculated by the Kaplan-Meier product-limit method or the actuarial life table method: "Kaplan, G., Meier, P. Non-Parametric estimation from incomplete observations. Journal of American Statistical Association 53:457-481, 1958. Cox, D.R., Oakes, D. Analysis of survival data. Chapman and Hill, 1984." adopted and incorporated by reference. The time to graft failure will be determined by the use of insulin post-pancreas transplantation, by the use of dialysis post-renal transplantation, and the use of total parenteral nutrition post-small bowel transplantation. At least ten patients in the appropriate age group must have documented graft function at the end of the one year period to document adequate confidence intervals. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(q) Bone marrow transplantation centers must document, by a current medical literature review, a one-year and a three-year survival rate from patients having received transplantation for the age group, specific diagnosis(es), condition and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(r) The transplant center must provide written recommendations for each client which support the need for the transplant. The recommendations must reflect use of both the transplant center's own patient selection criteria and the Utah Medicaid program criteria as noted in Sections R414-10A-8 through 22. Agreement of the transplant center to provide the required service must also be established.

(s) The physician must provide, for review by the Department, any additional medical information which could affect the outcome of the specific transplant being requested.

(t) The completed request for authorization, along with all required information and documentation, must be delivered to:

Utah Department of Health
Bureau of Coverage and Reimbursement Policy
Utilization Management Unit
Transplant Coordinator
288 North 1460 West
P.O. Box 143103
Salt Lake City, Utah 84114-3103

(u) If incomplete documentation is received by the Department, the client's case is pending until the requested documentation has been received.

(4) Prior authorization for each donor lymphocyte infusion must contain all of the following:

(a) A description of the medical condition that necessitates a donor lymphocyte infusion.

(b) Comprehensive examination, evaluation and recommendations completed by a board-certified or board-eligible specialist in a field directly related to the client's condition that necessitates the transplantation, such as a nephrologist, gastroenterologist, cardiologist, or hematologist. The evaluation must document that the proposed donor lymphocyte infusion for the client is

a medically necessary service as defined in Subsections R414-1-2(18)(a) and (b).

(c) Hospital and outpatient records for at least the last six months. If the patient is less than six months of age, the Department requires all case records.

(d) The transplant center must document by a current medical literature review that the donor lymphocyte infusion is a medically necessary service as defined in Subsections R414-1-2(18)(a) and (b) for the age group, specific diagnosis(es), condition, and type of transplantation the client has previously received.

R414-10A-9. Criteria and Contraindications for Bone Marrow Transplantation.

(1) Bone marrow transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) The client for bone marrow transplantation must meet requirements of Subsections R414-10A-9(2)(a) or (b).

(a) Allogenic and syngeneic bone marrow transplantations may be approved for payment only when the client has an HLA-matched donor. The donor must be compatible for all or a five-out-of-six match of World Health Organization recognized HLA-A, -B, and -DR antigens as determined by appropriate serologic typing methodology.

(i) The Department authorizes payment for a search of related family members, unrelated persons or both to find a suitable donor.

(ii) The transplant center staff must complete, and submit to the Department for evaluation, a current medical literature review, documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year survival rate, or by having a greater than or equal to 55 percent three-year survival rate or by meeting the one-year and three-year survival rates for patients receiving bone marrow transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(b) Autologous bone marrow transplantation performed in conjunction with total body radiation or high dose chemotherapy, may be approved for payment only if a current medical literature review, completed by the transplant center staff and sent to the Department for staff review and evaluation, documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year survival rate, or by having a greater than or equal to 55 percent three-year survival rate or by meeting the one-year and three-year survival rates for patients receiving bone marrow transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(c) Clients for autologous bone marrow transplantations must have adequate marrow function and no evidence of marrow involvement by the primary malignancy at the time the marrow is harvested.

(3) The client for bone marrow transplantation must meet all of the following requirements:

(a) Medical assessment that the client is a reasonable risk for surgery with a likelihood of tolerance for immunosuppressive therapy.

(b) Medical assessment by the client's referring physician that the client has sufficient mental, emotional and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly

adhere to the long-term follow-up and the immunosuppressive program which is required.

(c) Psycho-social assessment [~~by a board-certified or board-eligible psychiatrist~~] that the client has sufficient mental, emotional and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long-term follow-up and the immunosuppressive program which is required.

(d) The client must have a strong motivation to undergo the procedure as documented by the medical and psycho-social assessment.

(e) If the client has a history of substance abuse, then the client must successfully complete a substance abuse rehabilitation program or must have documented abstinence for a period of at least six months before the Department reviews a request for transplantation services.

(f) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documenting that the underlying original bone marrow disease will not recur and limit survival to less than 75% one-year survival rate, or to less than 55% three-year survival rate. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(4) Any single contraindication listed below precludes approval for Medicaid payment for bone marrow transplantation:

(a) Active infection.

(b) Acute severe hemodynamic compromise at the time of transplantation if accompanied by significant compromise of one or more vital end-organs.

(c) Active substance abuse.

(d) Presence of systemic dysfunction or malignant disease which could limit successful clinical outcome or interfere with compliance with a disciplined medical regimen or rehabilitation after transplantation.

(e) Neuropsychiatric disorder which could lead to non-compliance or inhibit rehabilitation of the patient.

(f) Pulmonary diseases:

(i) Cystic fibrosis.

(ii) Obstructive pulmonary disease (FEV1 less than 50% of predicted).

(iii) Restrictive pulmonary disease (FVC less than 50% of predicted).

(iv) Unresolved pulmonary roentgenographic abnormalities of unclear etiology.

(v) Recent or unresolved pulmonary infarction.

(g) Cancer, unless treated and eradicated for two or more years or unless a current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documents a greater than or equal to 75% one-year survival rate, or a greater than or equal to 55 percent three-year survival rate, or by meeting the one-year and three-year survival rates after transplantation for the age group, specific cancer, diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(h) Cardiovascular diseases:

(i) Intractable cardiac arrhythmias.

(ii) Symptomatic or occlusive peripheral vascular or cerebrovascular disease.

(iii) Severe generalized arteriosclerosis.

(i) Evidence of other major organ system disease or anomaly which could decrease the probability of successful clinical outcome or decrease the potential for rehabilitation.

(j) Behavior pattern documented in the client's medical or psycho-social assessment which could interfere with a disciplined medical regimen. An indication of non-compliance by the client is documented by any of the following:

- (i) Non-compliance with medications or therapy.
- (ii) Failure to keep scheduled appointments.
- (iii) Leaving the hospital against medical advice.
- (iv) Active substance abuse.

(5) Prior to the approval of transplantation, the transplantation team must document a plan of care, agreed to by the parent(s) or guardian(s) of a client who is under 18 years of age, to assure compliance to medication and follow-up care, if an indication of non-compliance documented by any of the behaviors listed in Subsections R414-10A-9([§]4)(j)(i) through (iv) is demonstrated by the parent(s) or guardian(s) of the client.

(6) The client for donor lymphocyte infusion must produce documentation by current medical literature review and the client's referring physician that the donor lymphocyte infusion is a medically necessary service as defined in Subsections R414-1-2(18)(a) and (b).

R414-10A-10. Criteria and Contraindications for Heart Transplantation.

(1) Heart transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) The client for heart transplantation must meet all of the following requirements:

(a) The client must have irreversible, progressive heart disease with a life expectancy of one year or less without transplantation, or documented evidence of progressive pulmonary hypertension and no other reasonable medical or surgical alternative to transplantation available.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year survival rate for patients receiving heart transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(c) Severe cardiac dysfunction.

(d) Medical assessment that the client is a reasonable risk for surgery with a likelihood of tolerance for immunosuppressive therapy.

(e) Medical assessment by the client's referring physician that the client has sufficient mental, emotional and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long-term follow-up and the immunosuppressive program which is required.

(f) Psycho-social assessment ~~[by a board-certified or board-eligible psychiatrist]~~ that the client has sufficient mental, emotional and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long-term follow-up and the immunosuppressive program which is required.

(g) The client must have strong motivation to undergo the procedure, as documented by the medical and psycho-social assessment.

(h) If the client has a history of substance abuse, then the client must successfully complete a substance abuse rehabilitation program or must have documented abstinence for a period of at least six months before the Department reviews a request for transplantation services.

(i) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documenting that the underlying original heart disease will not recur and limit survival to less than 75% one-year survival rate. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(3) Any single contraindication listed below precludes approval for Medicaid payment for heart transplantation:

(a) Active infection.

(b) Acute severe hemodynamic compromise at the time of transplantation if accompanied by significant compromise of one or more non-cardiac vital end-organs.

(c) Active substance abuse.

(d) Presence of systemic dysfunction or malignant disease which could limit successful clinical outcome, interfere with compliance with a disciplined medical regimen or rehabilitation after transplantation.

(e) Neuropsychiatric disorder which could lead to non-compliance or inhibit rehabilitation of the patient.

(f) Pulmonary diseases:

(i) Cystic fibrosis.

(ii) Obstructive pulmonary disease (FEV1 less than 50% of predicted).

(iii) Restrictive pulmonary disease (FVC less than 50% of predicted).

(iv) Unresolved pulmonary roentgenographic abnormalities of unclear etiology.

(v) Recent or unresolved pulmonary infarction.

(g) Cancer, unless treated and eradicated for two or more years or unless a current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documents a greater than or equal to 75% one-year survival rate after transplantation for the age group, specific cancer, diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(h) Cardiovascular diseases:

(i) Severe pulmonary hypertension documented in patients 18 years of age and older by a pulmonary vascular resistance greater than eight Wood units, or pulmonary vascular resistance of six or seven Wood units in which a nitroprusside infusion is unable to reduce the pulmonary vascular resistance to less than three Wood units or is unable to reduce the pulmonary artery systolic pressure to below 50 mmHg.

(ii) Severe pulmonary hypertension documented in patients less than 18 years of age and more than six months of age by a pulmonary vascular resistance greater than six pulmonary vascular resistance index units (PVRI), or in which a nitroprusside infusion is unable to reduce the pulmonary vascular resistance to less than six PVRI.

(iii) Symptomatic or occlusive peripheral vascular or cerebrovascular disease.

(iv) Severe generalized arteriosclerosis.

(i) Evidence of other major organ system disease or anomaly which could decrease the probability of successful clinical outcome or decrease the potential for rehabilitation.

(j) Behavior pattern documented in the client's medical or psycho-social assessment which could interfere with a disciplined

medical regimen. An indication of non-compliance by the client is documented by any of the following:

- (i) Non-compliance with medications or therapy.
- (ii) Failure to keep scheduled appointments.
- (iii) Leaving the hospital against medical advice.
- (iv) Active substance abuse.

(4) Prior to approval of the transplantation, the transplantation team must document a plan of care, agreed to by the parent(s) or guardian(s), if an indication of non-compliance is demonstrated by the parent(s) or guardian(s) of a client who is under 18 years of age. Non-compliance is demonstrated by documentation of any of the behaviors listed in Subsections R414-10A-10(3)(j)(i) through (iv).

R414-10A-11. Criteria and Contraindications for Intestine Transplantation.

(1) Intestine transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) The client for intestine transplantation must meet all of the following requirements:

(a) The client must have short bowel syndrome or irreversible, progressive small bowel disease that requires daily hyperalimentation with no other reasonable medical or surgical alternative to transplantation available.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year small bowel graft function rate for patients receiving intestine transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(c) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a greater than or equal to 85 percent one-year survival rate for patients receiving intestine transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(d) Medical assessment that the client is a reasonable risk for surgery with a likelihood of tolerance for immunosuppressive therapy.

(e) Medical assessment by the client's referring physician that the client has sufficient mental, emotional and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long term follow up and the immunosuppressive program which is required.

(f) Psycho-social assessment [by a board-certified or board-eligible psychiatrist] that the client has sufficient mental, emotional, and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long-term follow-up and the immunosuppressive program which is required.

(g) The client must have a strong motivation to undergo the procedure as documented by the medical and psycho-social assessment.

(h) If the client has a history of substance abuse, then he must successfully complete a substance abuse rehabilitation program or must have documented abstinence for a period of at least six months before the Department reviews a request for transplantation services.

(i) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documenting that the underlying original intestinal disease will not recur and limit graft function survival to less than 75% one-year survival rate.

(j) The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(3) Any single contraindication listed below precludes approval for Medicaid payment for small bowel transplantation:

(a) Active infection.

(b) Acute severe hemodynamic compromise at the time of transplantation, if accompanied by significant compromise of one or more vital end-organs.

(c) Active substance abuse.

(d) Presence of systemic dysfunction or malignant disease which could limit survival, interfere with compliance with a disciplined medical regimen or rehabilitation after transplantation.

(e) Neuropsychiatric disorder which could lead to non-compliance or inhibit rehabilitation of the patient.

(f) Pulmonary diseases:

(i) Cystic fibrosis.

(ii) Obstructive pulmonary disease (FEV1 less than 50% of predicted).

(iii) Restrictive pulmonary disease (FVC less than 50% of predicted).

(iv) Unresolved pulmonary roentgenographic abnormalities of unclear etiology.

(v) Recent or unresolved pulmonary infarction.

(g) Cancer, unless treated and eradicated for two or more years, or unless a current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documents a greater than or equal to 85% one-year survival rate after transplantation for the age group, specific cancer, diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(h) Cardiovascular diseases:

(i) Myocardial infarction within six months.

(ii) Intractable cardiac arrhythmias.

(iii) Class III or IV cardiac dysfunction by New York Heart Association criteria.

(iv) Prior congestive heart failure, unless a cardiovascular consultant determines adequate cardiac reserve.

(v) Symptomatic or occlusive peripheral vascular or cerebrovascular disease.

(vi) Severe generalized arteriosclerosis.

(i) Evidence of other major organ system disease or anomaly which could decrease the probability of successful clinical outcome or decrease the potential for rehabilitation.

(j) Behavior pattern documented in the client's medical or psycho-social assessment which could interfere with a disciplined medical regimen. An indication of non-compliance by the client is documented by any of the following:

(i) Non-compliance with medications or therapy.

(ii) Failure to keep scheduled appointments.

(iii) Leaving the hospital against medical advice.

(iv) Active substance abuse.

(4) Prior to approval of the transplantation, the transplantation team must document a plan of care, agreed to by the parent(s) or guardian(s), if an indication of non-compliance is demonstrated by the parent(s) or guardian(s) of a client who is under 18 years of age. An indication of non-compliance by the parent(s) or guardian(s) is documented by any of the behaviors listed in Subsections R414-10A-11(3)(j)(i) through (iv).

R414-10A-12. Criteria and Contraindications for Kidney Transplantation.

(1) Kidney transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) All indications for kidney transplantation listed below must be met by each client.

(a) The client must have irreversible, progressive end-stage renal disease.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year successful renal graft function rate for patients receiving renal transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(c) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a greater than or equal to 90 percent one-year survival rate for patients receiving renal transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(d) Medical assessment that the client is a reasonable risk for surgery with a likelihood of tolerance for immunosuppressive therapy.

(e) Medical assessment by the client's referring physician that the client has sufficient mental, emotional and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long-term follow-up and the immunosuppressive program which is required.

(f) Psycho-social assessment ~~[by a board certified or board eligible psychiatrist]~~ that the client has sufficient mental, emotional and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long-term follow-up and the immunosuppressive program which is required.

(g) The client must have strong motivation to undergo the procedure as documented by the medical and psycho-social assessment.

(h) If the client has a history of substance abuse, then the client must successfully complete a substance abuse rehabilitation program or must have documented abstinence for a period of at least six months before the Department reviews a request for transplantation services.

(i) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documenting that the underlying original renal disease will not recur and limit graft function to less than 75% one-year survival rate. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(3) Any single contraindication listed below shall preclude approval for Medicaid payment for kidney transplantation:

(a) Active infection.

(b) Acute severe hemodynamic compromise at the time of transplantation if accompanied by significant compromise of one or more non-renal end-organs.

(c) Active substance abuse.

(d) Presence of systemic dysfunction or malignant disease which could limit successful clinical outcome, interfere with compliance with a disciplined medical regimen or rehabilitation after transplantation.

(e) Neuropsychiatric disorder which could lead to non-compliance or inhibit rehabilitation of the patient.

(f) Pulmonary diseases:

(i) Cystic fibrosis.

(ii) Obstructive pulmonary disease (FEV1 less than 50% of predicted).

(iii) Restrictive pulmonary disease (FVC less than 50% of predicted).

(iv) Unresolved pulmonary roentgenographic abnormalities of unclear etiology.

(v) Recent pulmonary infarction.

(g) Cancer, unless treated and eradicated for two or more years or unless a current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documents a greater than or equal to 90% one-year survival rate after transplantation for the age group, specific cancer, diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(h) Cardiovascular diseases:

(i) Myocardial infarction within six months.

(ii) Intractable cardiac arrhythmias.

(iii) Symptomatic or occlusive peripheral vascular or cerebrovascular disease.

(iv) Severe generalized arteriosclerosis.

(i) Evidence of other major organ system disease or anomaly which could decrease the probability of successful clinical outcome or decrease the potential for rehabilitation.

(j) Behavior pattern documented in the client's medical or psycho-social assessment which could interfere with a disciplined medical regimen. An indication of non-compliance by the client is documented by any of the following:

(i) Non-compliance with medications or therapy.

(ii) Failure to keep scheduled appointments.

(iii) Leaving the hospital against medical advice.

(iv) Active substance abuse.

(4) Prior to approval of the transplantation, the transplantation team must document a plan of care, agreed to by the parent(s) or guardian(s), if an indication of non-compliance is demonstrated by the parent(s) or guardian(s) of a client who is under 18 years of age. An indication of non-compliance by the parent(s) or guardian(s) is documented by any of the behaviors listed in Subsections R414-10A-12(3)(j)(i) through (iv).

R414-10A-13. Criteria and Contraindications for Liver Transplantation.

(1) Liver transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) A client for liver transplantation must meet all of the following requirements:

(a) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review, documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year survival rate for patients receiving liver transplantation for the age group, specific diagnosis(es), condition, and type of liver transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(b) Medical assessment that the client is a reasonable risk for surgery with a likelihood of tolerance for immunosuppressive therapy.

(c) Medical assessment by the client's referring physician that the client has sufficient mental, emotional and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long term follow up and the immunosuppressive program which is required.

(d) Psycho-social assessment [by a board-certified or board-eligible psychiatrist] that the client has sufficient mental, emotional, and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long-term follow-up and the immunosuppressive program which is required.

(e) The client must have a strong motivation to undergo the procedure as documented by the medical and psycho-social assessment.

(f) If the client has a history of substance abuse, then the client must successfully complete a substance abuse rehabilitation program or must have documented abstinence for a period of at least six months before the Department reviews a request for transplantation services.

(g) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documenting that the underlying original liver disease will not recur and limit survival to less than 75% one-year survival rate. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(3) Any single contraindication listed below precludes approval for Medicaid payment for liver transplantation:

(a) Active infection outside the hepatobiliary system.

(b) Acute severe hemodynamic compromise at the time of transplantation, if accompanied by significant compromise of one or more non-hepatic vital end-organs.

(c) Hepatitis B surface antigen positive, except for cases of fulminant hepatitis B.

(d) Stage IV hepatic coma.

(e) Active substance abuse.

(f) Presence of systemic dysfunction or malignant disease which could limit successful clinical outcome, interfere with compliance with a disciplined medical regimen or rehabilitation after transplantation.

(g) Neuropsychiatric disorder which could lead to non-compliance or inhibit rehabilitation of the patient.

(h) Pulmonary diseases:

(i) Cystic fibrosis.

(ii) Obstructive pulmonary disease (FEV1 less than 50% of predicted).

(iii) Restrictive pulmonary disease (FVC less than 50% of predicted).

(iv) Unresolved pulmonary roentgenographic abnormalities of unclear etiology.

(v) Recent or unresolved pulmonary infarction.

(i) Cancer, unless treated and eradicated for two or more years or unless a current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documents a greater than or equal to 75% one-year survival rate after transplantation for the age group, specific cancer, diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(j) Cardiovascular diseases:

(i) Myocardial infarction within six months.

(ii) Intractable cardiac arrhythmias.

(iii) Class III or IV cardiac dysfunction by New York Heart Association criteria: "Goldman, L. et al. Comparative reproducibility and validity of systems assessing cardiovascular functional class: Advantages of a new specific activity scale. American Heart Association Circulation 64: 1227, 1981.", adopted and incorporated by reference.

(iv) Prior congestive heart failure, unless a cardiovascular consultant determines adequate cardiac reserve.

(v) Symptomatic or occlusive peripheral vascular or cerebrovascular disease.

(vi) Severe generalized arteriosclerosis.

(k) Evidence of other major organ system disease or anomaly which could decrease the probability of successful clinical outcome or decrease the potential for rehabilitation.

(l) Behavior pattern documented in the client's medical or psycho-social assessment which could interfere with a disciplined medical regimen. An indication of non-compliance by the client is documented by any of the following:

(i) Non-compliance with medications or therapy.

(ii) Failure to keep scheduled appointments.

(iii) Leaving the hospital against medical advice.

(iv) Active substance abuse.

(4) Prior to approval of the transplantation, the transplantation team must document a plan of care, agreed to by the parent(s) or guardian(s) of a client who is under 18 years of age, to assure compliance with medications and follow-up care, if an indication of non-compliance documented by any of the behaviors listed in Subsections R414-10A-13(3)(l)(i) through (iv) is demonstrated by the parent(s) or guardian(s) of the client.

R414-10A-14. Criteria and Contraindications for Lung Transplantation.

(1) Lung transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) The client for lung transplantation must meet all of the following requirements:

(a) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review, documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year survival rate for patients receiving lung transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(b) Medical assessment that the client is a reasonable risk for surgery with a likelihood of tolerance for immunosuppressive therapy.

(c) Medical assessment by the client's referring physician that the client has sufficient mental, emotional and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long term follow up and the immunosuppressive program which is required.

(d) Psycho-social assessment [~~by a board certified or board eligible psychiatrist~~] that the client has sufficient mental, emotional, and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long-term follow-up and the immunosuppressive program which is required.

(e) The client must have a strong motivation to undergo the procedure as documented by the medical and psycho-social assessment.

(f) The client with a history of substance abuse must successfully complete a substance abuse rehabilitation program or must have documented abstinence for a period of at least six months before the Department reviews a request for transplantation services.

(g) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documenting that the underlying original lung disease will not recur and limit survival to less than 75% one-year survival rate. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(3) Any single contraindication listed below shall preclude approval for payment for lung transplantation:

(a) Active infection.

(b) Acute severe hemodynamic compromise at the time of transplantation, if accompanied by significant compromise of one or more non-pulmonary vital end-organs.

(c) Active substance abuse.

(d) Presence of systemic dysfunction or malignant disease which could limit survival, interfere with compliance with a disciplined medical regimen or rehabilitation after transplantation.

(e) Neuropsychiatric disorder which could lead to non-compliance or inhibit rehabilitation for the patient.

(f) Cancer, unless treated and eradicated for two or more years or unless a current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documents a greater than or equal to 75% one-year survival rate after transplantation for the age group, specific cancer, diagnosis(es), condition and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(g) Cardiovascular diseases:

(i) Myocardial infarction within six months;

(ii) Intractable cardiac arrhythmias;

(iii) Class III or IV cardiac dysfunction by New York Heart Association criteria.

(iv) Prior congestive heart failure, unless a cardiovascular consultant determines adequate cardiac reserve.

(v) Symptomatic or occlusive peripheral vascular or cerebrovascular disease;

(vi) Severe generalized arteriosclerosis.

(h) Evidence of other major organ system disease or anomaly which could decrease the probability of successful clinical outcome or decrease the potential for rehabilitation.

(i) Behavior pattern documented in the client's medical or psycho-social assessment which could interfere with a disciplined medical regimen. An indication of non-compliance by the client is documented by any of the following:

(i) Non-compliance with medications or therapy.

(ii) Failure to keep scheduled appointments.

(iii) Leaving the hospital against medical advice.

(iv) Active substance abuse.

(4) Prior to approval of the transplantation, the transplantation team must document a plan of care, agreed to by the parent(s) or guardian(s), if an indication of non-compliance is demonstrated by the parent(s) or guardian(s) of a client who is under 18 years of age. An indication of non-compliance by the parent(s) or guardian(s) is documented by any of the behaviors listed in Subsections R414-10A-14(3)(i)(i) through (iv).

R414-10A-15. Criteria and Contraindications for Pancreas Transplantation.

(1) Pancreas transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) All indications for pancreas transplantation listed below must be met by each client.

(a) The client must have type I diabetes mellitus.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a pancreas graft function rate greater than or equal to 75 percent at one-year for patients receiving pancreas transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(c) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a greater than or equal to 90 percent one-year survival rate for patients receiving pancreas transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(d) Medical assessment that the client is a reasonable risk for surgery with a likelihood of tolerance for immunosuppressive therapy.

(e) Medical assessment by the client's referring physician that the client has sufficient mental, emotional and social stability and support to ensure that he and his parent(s) or guardian(s) will strictly adhere to the long-term follow-up and the immunosuppressive program which is required

(f) Psycho-social assessment [~~by a Board certified psychiatrist~~] that the client has sufficient mental, emotional and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long-term follow-up and the immunosuppressive program which is required.

(g) The client must have strong motivation to undergo the procedure as documented by the medical and psycho-social assessment.

(h) If the client has a history of substance abuse, then he must successfully complete a substance abuse rehabilitation program or must have documented abstinence for a period of at least six months before the Department reviews a request for transplantation services.

(i) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documenting that the underlying original pancreas disease will not recur and limit graft function rate to less than 75% at one-year. The Department shall use independent research by staff

medical consultants to evaluate the documentation submitted by the transplant center.

(3) Any single contraindication listed below precludes approval for Medicaid payment for pancreas transplantation:

- (a) Active infection.
- (b) Acute severe hemodynamic compromise at the time of transplantation if accompanied by significant compromise of one or more end-organs.
- (c) Active peptic ulcer.
- (d) Active substance abuse.
- (e) Presence of systemic dysfunction or malignant disease which could limit successful clinical outcome, interfere with compliance with a disciplined medical regimen or rehabilitation after transplantation.
- (f) Irreversible musculoskeletal disease resulting in progressive weakness or in confinement to bed.
- (g) Neuropsychiatric disorder which could lead to non-compliance or inhibit rehabilitation of the patient.
- (h) Pulmonary diseases:
 - (i) Cystic fibrosis.
 - (ii) Obstructive pulmonary disease (FEV1 less than 50% of predictable).
 - (iii) Restrictive pulmonary disease (FVC less than 50% of predictable).
 - (iv) Unresolved pulmonary roentgenographic abnormalities of unclear etiology.
- (v) Recent pulmonary infarction.
 - (i) Cancer, unless treated and eradicated for two or more years or unless a current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documents a greater than or equal to 90% one-year survival rate after transplantation for the age group, specific cancer, diagnosis(es), condition and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

- (j) Cardiovascular diseases:
 - (i) Myocardial infarction within six months.
 - (ii) Intractable cardiac arrhythmias.
 - (iii) Symptomatic or occlusive peripheral vascular or cerebrovascular disease.
 - (iv) Severe general arteriosclerosis.
- (k) Evidence of other major organ system disease or anomaly which could decrease the probability of successful clinical outcome or decrease the potential for rehabilitation.

(l) Behavior pattern documented in the client's medical or psycho-social assessment which could interfere with a disciplined medical regimen. An indication of non-compliance by the client is documented by any of the following:

- (i) Non-compliance with medications or therapy.
- (ii) Failure to keep scheduled appointments.
- (iii) Leaving the hospital against medical advice.
- (iv) Active substance abuse.

(4) Prior to approval of the transplantation, the transplantation team must document a plan of care, agreed to by the parent(s) or guardian(s), if an indication of non-compliance is demonstrated by the parent(s) or guardian(s) of a client who is under 18 years of age. An indication of non-compliance by the parent(s) or guardian(s) is documented by any of the behaviors listed in Subsections R414-10A-15(3)(l)(i) through (iv).

R414-10A-16. Criteria and Contraindications for Small Bowel Transplantation.

(1) Small bowel transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) The client for small bowel transplantation must meet all of the following requirements:

(a) The client must have short bowel syndrome or irreversible, progressive small bowel disease that requires daily hyperalimentation with no other reasonable medical or surgical alternative to transplantation available.

(b) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year small bowel function rate for patients receiving small bowel transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(c) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review documenting a probability for successful clinical outcome by having a greater than or equal to 85 percent one-year survival rate for patients receiving small bowel transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(d) Medical assessment that the client is a reasonable risk for surgery with a likelihood of tolerance for immunosuppressive therapy.

(e) Medical assessment by the client's referring physician that the client has sufficient mental, emotional and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long term follow up and the immunosuppressive program which is required.

(f) Psycho-social assessment [~~by a board certified or board eligible psychiatrist~~] that the client has sufficient mental, emotional, and social stability and support to ensure that the client and parent(s) or guardian(s) will strictly adhere to the long-term follow-up and the immunosuppressive program which is required.

(g) The client must have a strong motivation to undergo the procedure as documented by the medical and psycho-social assessment.

(h) If the client has a history of substance abuse, then he must successfully complete a substance abuse rehabilitation program or must have documented abstinence for a period of at least six months before the Department reviews a request for transplantation services.

(i) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documenting that the underlying original small bowel disease will not recur and limit small bowel function survival to less than 85% one-year survival rate.

(j) The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(3) Any single contraindication listed below shall preclude approval for Medicaid payment for small bowel transplantation:

- (a) Active infection.

(b) Acute severe hemodynamic compromise at the time of transplantation, if accompanied by significant compromise of one or more vital end-organs.

(c) Active substance abuse.

(d) Presence of systemic dysfunction or malignant disease which could limit survival, interfere with compliance with a disciplined medical regimen or rehabilitation after transplantation.

(e) Neuropsychiatric disorder which could lead to non-compliance or inhibit rehabilitation of the patient.

(f) Pulmonary diseases:

(i) Cystic fibrosis.

(ii) Obstructive pulmonary disease (FEV1 less than 50% of predicted).

(iii) Restrictive pulmonary disease (FVC less than 50% of predicted).

(iv) Unresolved pulmonary roentgenographic abnormalities of unclear etiology.

(v) Recent or unresolved pulmonary infarction.

(g) Cancer, unless treated and eradicated for two or more years, or unless a current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documents a greater than or equal to 75% one-year survival rate after transplantation for the age group, specific cancer, diagnosis(es), condition and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(h) Cardiovascular diseases:

(i) Myocardial infarction within six months.

(ii) Intractable cardiac arrhythmias.

(iii) Class III or IV cardiac dysfunction by New York Heart Association criteria.

(iv) Prior congestive heart failure, unless a cardiovascular consultant determines adequate cardiac reserve.

(v) Symptomatic or occlusive peripheral vascular or cerebrovascular disease.

(vi) Severe generalized arteriosclerosis.

(i) Evidence of other major organ system disease or anomaly which could decrease the probability of successful clinical outcome or decrease the potential for rehabilitation.

(j) Behavior pattern documented in the client's medical or psycho-social assessment which could interfere with a disciplined medical regimen. An indication of non-compliance by the client is documented by any of the following:

(i) Non-compliance with medications or therapy.

(ii) Failure to keep scheduled appointments.

(iii) Leaving the hospital against medical advice.

(iv) Active substance abuse.

(4) Prior to approval of the transplantation, the transplantation team must document a plan of care, agreed to by the parent(s) or guardian(s), if an indication of non-compliance is demonstrated by the parent(s) or guardian(s) of a client who is under 18 years of age. An indication of non-compliance by the parent(s) or guardian(s) is documented by any of the behaviors listed in Subsections R414-10A-16(4)(3)(k)(i) through (iv).

R414-10A-17. Criteria and Contraindications for Heart and Lung Transplantation.

(1) Heart-lung transplantation services may be provided for a Medicaid eligible client of any age who meets the following criteria.

(2) The client for heart-lung transplantation must meet all of the following requirements:

(a) The transplant center staff must complete, and submit to the Department for staff review and evaluation, a current medical literature review, documenting a probability of successful clinical outcome by having a greater than or equal to 75 percent one-year survival rate for patients receiving heart-lung transplantation for the age group, specific diagnosis(es), condition, and type of transplantation proposed for the client. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(b) A current medical literature review, completed by the transplant center staff and submitted to the Department for staff review and evaluation, documenting that the underlying original disease will not recur and limit survival to less than 75% one-year survival rate. The Department shall use independent research by staff medical consultants to evaluate the documentation submitted by the transplant center.

(c) The requirements listed in:

(i) Subsections R414-10A-10(3)(2)(b) through (i).

(ii) Subsections R414-10A-10(3)(a) through (g), and (i) through (j).

(iii) Subsection R414-10A-10(4).

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: ~~May 15, 2007~~

Notice of Continuation: February 2, 2007

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



Health, Health Care Financing, Coverage and Reimbursement Policy

R414-200-4

Cost Sharing

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29977

FILED: 05/29/2007, 08:44

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is necessary to implement a copayment change for prescription drugs in the Non-Traditional Medicaid (NTM) program.

SUMMARY OF THE RULE OR CHANGE: The copayment for prescription drugs is changed from \$2 to \$3 per prescription.

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

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** There is a savings of \$115,090 to the General Fund and \$270,342 in federal funds.

❖ LOCAL GOVERNMENTS: There is no budget impact because local governments do not fund pharmacy services for NTM clients.

❖ OTHER PERSONS: There is no cost or savings for pharmacists because they receive \$1 less in Medicaid reimbursement, which offsets the \$1 copayment increase from the client.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is a \$1 copayment increase from \$2 to \$3 per prescription for a single NTM client. However, the total pocket expense for an NTM client is limited to \$500 per calendar year.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Impact on business is neutral. Pharmacies collect an additional \$1 in a copayment from the Medicaid recipient and their reimbursement is reduced by the same amount. There may be some administrative burden on pharmacies which will be gauged during the public comment period. David N. Sundwall, MD, Executive Director

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 at the above address, 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 TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2007

AUTHORIZED BY: David N. Sundwall, Executive Director

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

R414-200. Non-Traditional Medicaid Health Plan Services.

R414-200-4. Cost Sharing.

- (1) An enrollee is responsible to pay to the:
- (a) hospital a \$220 co-insurance payment for each inpatient hospital admission;
 - (b) hospital a \$6 copayment for each non-emergency use of hospital emergency services;
 - (c) provider a \$3 copayment for outpatient office visits for physician, physician-related, mental health, and physical therapy services; except, no copayment is due for preventive services, immunizations and health education; and
 - (d) pharmacy a \$[2]3 copayment per prescription for prescription drugs.

(2) The out-of-pocket maximum payment for copayments or co-insurance is limited to \$500 per enrollee per calendar year.

KEY: Medicaid, non-traditional, cost sharing

Date of Enactment or Last Substantive Amendment: [~~October 11, 2006~~]2007

Notice of Continuation: May 24, 2007

Authorizing, and Implemented or Interpreted Law: 26-18

◆ ————— ◆

Insurance, Administration **R590-126-4** Prohibited Policy Provisions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29998

FILED: 05/31/2007, 11:47

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Representatives of the health insurance industry have requested that the allowable Exclusions subsection of this rule be changed.

SUMMARY OF THE RULE OR CHANGE: The department has deleted the reference to gastric bypasses in the cosmetic exclusion and have created a stand-alone exclusion clarifying that all gastric surgeries related to obesity are excluded.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-202, 31A-23a-412, 31A-22-605, 31A-22-623, 31A-22-626, 31A-23a-402, and 31A-26-301

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no change to the state or department's budget. The change will not require additional filings or change in the department's workload. This is a change that reflects what is already being done in the marketplace.

❖ LOCAL GOVERNMENTS: Since the changes to this rule deal solely with the relationship between the department and their licensees, it will have no effect on local governments.

❖ OTHER PERSONS: The changes clarify that all gastric surgeries related to obesity are excluded. Since this is the interpretation the industry has given to the rule already, it will have no effect on insurers and consumers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The change clarifies that all gastric surgeries related to obesity are excluded. Since this is the interpretation the industry has given to the rule, it will have no effect on insurers and consumers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will have no fiscal impact on Utah businesses. It just makes the intent of the rule clearer. D. Kent Michie, Commissioner

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

INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2007

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-126. Accident and Health Insurance Standards.

R590-126-4. Prohibited Policy Provisions.

(1) Probationary periods.

(a) A policy shall not contain provisions establishing a probationary period during which no coverage is provided under the policy, subject to the further exception that a policy may specify a probationary period not to exceed six months for specified diseases or conditions and losses resulting from disease or condition related to:

- (i) adenoids;
- (ii) appendix;
- (iii) disorder of reproductive organs;
- (iv) hernia;
- (v) tonsils; and
- (vi) varicose veins.

(b) The six-month period in Subsection (1)(a) may not be applicable where such specified diseases or conditions are treated on an emergency basis.

(c) Accident policies may not contain probationary or waiting periods.

(d) A probationary or waiting period for a specified disease policy shall not exceed 30 days.

(2) Preexisting conditions.

(a) Except as provided in Subsections (b) and (c), a policy shall not exclude coverage for a loss due to a preexisting condition for a period greater than 12 months following the issuance of the policy or certificate where the application or enrollment form for the insurance does not seek disclosure of prior illness, disease or physical conditions or prior medical care and treatment and the preexisting condition is not specifically excluded by the terms of the policy or certificate.

(b) A specified disease policy shall not exclude coverage for a loss due to a preexisting condition for a period greater than six months following the issuance of the policy or certificate, unless the preexisting condition is specifically excluded.

(c) A hospital confinement indemnity policy shall not exclude a preexisting condition for a period greater than 12 months following the effective date of coverage of an insured person unless the preexisting condition is specifically and expressly excluded.

(d) Any preexisting condition elimination period must be reduced by any applicable creditable coverage.

(3) Hospital indemnity. Policies providing hospital confinement indemnity coverage shall not contain provisions excluding coverage because of confinement in a hospital operated by the federal government.

(4) Limitations or exclusions. A policy shall not limit or exclude coverage or benefits by type of illness, accident, treatment or medical condition, except as follows:

- (a) abortion;
- (b) acupuncture and acupressure services;
- (c) administrative charges for completing insurance forms, duplication services, interest, finance charges, or other administrative charges, unless otherwise required by law;
- (d) administrative exams and services;
- (e) alcoholism and drug addictions;
- (f) allergy tests and treatments;
- (g) aviation;
- (h) axillary hyperhidrosis;
- (i) benefits provided under:
 - (i) Medicare or other governmental program, except Medicaid;

- (ii) state or federal worker's compensation; or
- (iii) employer's liability or occupational disease law.

(j) cardiopulmonary fitness training, exercise equipment, and membership fees to a spa or health club;

(k) charges for appointments scheduled and not kept;

(l) chiropractic;

(m) complementary and alternative medicine;

(n) corrective lenses, and examination for the prescription or fitting thereof, but policies may not exclude required lens implants following cataract surgery;

(o) cosmetic surgery [~~including gastric procedures~~]; reversal, revision, repair, complications, or treatment related to a non-covered cosmetic surgery, [~~except that cosmetic surgery shall not include~~] This exclusion does not apply to reconstructive surgery when the service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part; or [and] reconstructive surgery because of congenital disease or anomaly of a covered dependent child that has resulted in a functional defect;

(p) custodial care;

(q) dental care or treatment, except dental plans;

(r) dietary products, except as required by R590-194;

(s) educational and nutritional training, except as required by R590-200;

(t) experimental and/or investigational services;

(u) felony, riot or insurrection, when the insured is a voluntary participant;

(v) foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain or symptomatic complaints of the feet, including orthotics. The exclusion of routine foot care does not apply to cutting or removal of corns, calluses, or nails when provided to a person who has a systemic disease, such as diabetes with peripheral neuropathy or circulatory insufficiency, of such severity that unskilled performance of the procedure would be hazardous;

(w) gastric or intestinal bypass services including lap banding, gastric stapling, and other similar procedures to facilitate weight loss; the reversal, or revision of such procedures; or services required for the treatment of complications from such procedures;

(x) gene therapy;
(y)(~~xy~~) genetic testing;
(z)(~~yz~~) hearing aids, and examination for the prescription or fitting thereof;

(aa)(~~za~~) illegal activities, limited to losses related directly to the insured's voluntary participation;

(bb)(~~ab~~) incarceration, with respect to disability income policies;

(cc)(~~bc~~) infertility services, except as required by R590-76;
(dd)(~~cd~~) interscholastic sports, with respect to short-term nonrenewable policies;

(ee)(~~de~~) mental or emotional disorders;
(ff)(~~ef~~) motor vehicle no-fault law, except when the covered person is required by law to have no-fault coverage, the exclusion applies to charges up to the minimum coverage required by law whether or not such coverage is in effect;

(gg)(~~fg~~) nuclear release;
(hh)(~~gh~~) preexisting conditions or diseases as allowed under Subsection R590-126-4(2), except for coverage of congenital anomalies as required by Section 31A-22-610;

(ii)(~~hi~~) pregnancy, except for complications of pregnancy;

(jj)(~~ij~~) refractive eye surgery;

(kk)(~~jk~~) rehabilitation therapy services (physical, speech, and occupational), unless required to correct an impairment caused by a covered accident or illness;

(ll)(~~kl~~) respite care;

(mm)(~~lm~~) rest cures;

(nn)(~~mn~~) routine physical examinations;

(oo)(~~no~~) service in the armed forces or units auxiliary to it;

(pp)(~~op~~) services rendered by employees of hospitals, laboratories or other institutions;

(qq)(~~pq~~) services performed by a member of the covered person's immediate family;

(rr)(~~qr~~) services for which no charge is normally made in the absence of insurance;

(ss)(~~rs~~) sexual dysfunction;

(tt)(~~st~~) shipping and handling, unless otherwise required by law;

(uu)(~~tu~~) suicide, sane or insane, attempted suicide, or intentionally self-inflicted injury;

(vv)(~~uv~~) telephone/electronic consultations;

(ww)(~~wv~~) territorial limitations outside the United States;

(xx)(~~wx~~) terrorism, including acts of terrorism;

(yy)(~~yx~~) transplants;

(zz)(~~zy~~) transportation;

(aaa)(~~zza~~) treatment provided in a government hospital, except for hospital indemnity policies;

(bbb)(~~aaa~~) war or act of war, whether declared or undeclared; or

(ccc)(~~bbb~~) others as may be approved by the commissioner.

(5) Waivers. This rule shall not impair or limit the use of waivers to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases, physical condition or extra hazardous activity. Where waivers are required as a condition of issuance, renewal or reinstatement, signed acceptance by the insured is required.

(6) Commissioner authority. Policy provisions precluded in this section shall not be construed as a limitation on the authority of the commissioner to prohibit other policy provisions that in the opinion of the commissioner are unjust, unfair or unfairly discriminatory to the policyholder, beneficiary or a person insured under the policy.

KEY: health insurance

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

Notice of Continuation: **January 11, 2007**

Authorizing, and Implemented or Interpreted Law: **31A-2-201; 31A-2-202; 31A-21-201; 31A-22-605; 31A-22-623; 31A-22-626; 31A-23a-402; 31A-26-301**

Insurance, Administration R590-148-25 Reporting Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30006

FILED: 05/31/2007, 14:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The rule is being changed to create a new form for the standard reporting of long-term care applicants suitability requirements.

SUMMARY OF THE RULE OR CHANGE: The change in Section R590-148-25 is to reference the new form necessary for an insurer to submit its annual suitability report.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201 and 31A-22-1404

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** The change to this rule will create no fiscal impact on the department or the state budget. Health insurers are already providing the department with an annual suitability report. The change requires that they do it on a standard form as established by the department.

❖ **LOCAL GOVERNMENTS:** The changes to this rule will not impact local governments since the rule deals only with the relationship between the department and its licensees.

❖ **OTHER PERSONS:** The change to this rule will create no fiscal impact on health insurers or their consumers. It merely standardizes the form on which they are already reporting their annual suitability report.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The change to this rule will create no fiscal impact on health insurers or their consumers. It merely standardizes the form on which they are to file their annual suitability report on.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The change to this rule will create no fiscal impact Utah businesses. D. Kent Michie, Commissioner

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

INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2007

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-148. Long-Term Care Insurance Rule.

R590-148-25. Reporting Requirements.

(1) Every insurer shall maintain records for each agent of that agent's amount of replacement sales as a percent of the agent's total annual sales and the amount of lapses of long-term care insurance policies sold by the agent as a percent of the agent's total annual sales.

(a) Every insurer shall report the 10% of its agents with the greatest percentages of lapses and replacements as measured by Subsection R590-148-25(1).

(b) Every insurer shall report the number of lapsed policies as a percent of its total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year.

(c) Every insurer shall report the number of replacement policies sold as a percent of its total annual sales and as a percent of its total number of policies in force as of the preceding calendar year.

(d) The reports required by Subsection R590-148-25(1)(a),(b), and (c) must be reported on the "Replacement and Lapse Reporting Form," Appendix G.

(e) Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely agent activities regarding the sale of long-term care insurance.

(2) Every insurer shall report, for qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of claims denied. The report used by the insurer shall contain, at a minimum, the information in the format contained in Appendix E, Claims Denial Reporting Form Long-Term Care Insurance, in not less than 12 point type.

(3) Every insurer shall maintain a record of all policy or certificate rescissions, both state and countrywide, except those which the insured voluntarily effectuated and shall annually report this information in the format currently prescribed by the National Association of Insurance Commissioners.

(4) Every insurer shall report the total number of applications received from residents of this state, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards, and the number of those who chose to confirm after receiving a suitability letter. The report must be submitted on the Suitability Reporting Form, Appendix H.

(5) For purposes of this section:

(a) "policy" shall mean only long-term care insurance;

(b) "claim" means a request for payment of benefits under an in force policy regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met;

(c) "denied" means that the insurer refuses to pay a claim for any reason other than for claims not paid for failure to meet the waiting period or because of an applicable preexisting condition; and

(d) "report" means on a statewide basis.

(6) Reports required under this section shall be filed with the commissioner annually on or before June 30. All reports must be submitted in compliance with Rule R590-220-13, Submission of Accident and Health Insurance Filings: Additional Procedures for Long Term Products.

KEY: insurance

Date of Enactment or Last Substantive Amendment: ~~September 30, 2005~~ 2007

Notice of Continuation: August 14, 2002

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-22-1404



Insurance, Administration
R590-226
Submission of Life Insurance Filings

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29969

FILED: 05/25/2007, 13:03

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Based on a need to store filings electronically and an increasing number of electronic filings, a policy change was made to require only electronic filings.

SUMMARY OF THE RULE OR CHANGE: The rule changes set standards for electronic filing. While reviewing the rule, numerous format and grammatical changes were suggested to enhance clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-201.1, and 31A-2-202

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," dated March 1, 2007; "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix," dated March 1, 2007; "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document (Instructions)," dated March 1, 2007; "NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document," dated January 1, 2006; "Utah Life Filing Certification for Individual," dated July 2007; "Utah Life Filing Certification for Group," dated July 2007; "Utah Life and Annuity Group Questionnaire," dated July 2007; "Utah Life and Annuity Request for Discretionary Group Authorization," dated July 2007; and "Utah Annual Life Insurance Illustration Certification Filing Checklist," dated July 2007

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There will be a mid-term savings due to reduced need to store paper and an immediate savings in time and workload due to less incoming mail and the need to handle paper filings. There will be no change in the fees coming into the department.
- ❖ LOCAL GOVERNMENTS: The changes to this rule will have no effect on local governments since the rule deals solely with the relationship between the department and their licensees.
- ❖ OTHER PERSONS: For those insurers not already filing electronically, there will be a transaction fee of \$6 to \$15 per filing. Some of this will be offset by the elimination of printing and mailing costs. There will be minimal, if any, fiscal impact on consumers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: For those insurers not already filing electronically, there will be a transaction fee of \$6 to \$15 per filing. Some of this will be offset by the elimination of printing and mailing costs. There will be minimal, if any, fiscal impact on consumers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact of these changes on life insurers will be minimal and will vary according to the size and number of filings an insurer sends to the department. D. Kent Michie, Commissioner

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

INSURANCE
ADMINISTRATION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2007

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-226. Submission of Life Insurance Filings.

R590-226-1. Authority.

This rule is promulgated by the insurance commissioner pursuant to Subsections 31A-2-201(3), 31A-2-201.1, and 31A-2-202(2).

R590-226-2. Purpose and Scope.

(1) The purpose of this rule is to set forth the procedures for submitting:

(a) life insurance filings required by Section 31A-21-201;[~~and~~

(b) viatical filings required by Rule R590-222; and

(c) report filings required by R590-177.

(2) This rule applies to:

(a) all types of individual and group life insurance;[~~and~~ variable life insurance[;] and viatical; and

(b) group life insurance contracts issued to nonresident policyholders, including trusts, when Utah residents are provided coverage by certificates of insurance.

R590-226-3. Documents Incorporated by Reference.

(1) The department requires that the documents described in this rule must be used for all filings.

(a) Actual copies may be used or you may adapt them to your word processing system.

(b) If adapted, the content, size, font, and format must be similar.

(2) The following documents are hereby incorporated by reference and are available on the department's website, www.insurance.utah.gov.

(a) "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," dated ~~January 1, 2006~~ March 1, 2007.

(b) "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix," dated ~~January 1, 2006~~ March 1, 2007.

(c) "NAIC ~~Instruction Sheet for~~ Life, Accident and Health, Annuity, Credit Transmittal Document (Instructions)," dated ~~January 1, 2006~~ March 1, 2007.

(d) [~~"NAIC Instruction Sheet for Life, Accident and Health, Annuity, Credit Transmittal Document Form Filing Attachment," dated January 1, 2006.~~

~~(e)–~~]"Utah Life Filing Certification for Individual," dated ~~June 2006~~ July 2007.

~~(f)~~]"Utah Life Filing Certification for Group," dated ~~June 2006~~ July 2007.

~~(g)~~]"Utah Life and Annuity Group Questionnaire," dated ~~June 2006~~ July 2007.

~~(h)~~]"Utah Life and Annuity Request for Discretionary Group Authorization," dated ~~June 2006~~ July 2007.

~~[(4)](h)~~ "Utah Annual Life Insurance Illustration Certification Filing Checklist," dated ~~[June 2006]~~ July 2007.

R590-226-4. Definitions.

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

(1) "Certification" means a statement that the filing being submitted is in compliance with Utah laws and rules.

(2) "Data page" means the page or pages in a policy or certificate that provide the specific data for the insured detailing the coverage provided and may be titled by the insurer as policy specifications, policy schedule, policy information, etc.

(3) "Discretionary group" means a group that has been specifically authorized by the commissioner under Section 31A-22-509.

(4) "Electronic Filing" means:

~~(a) a filing submitted via the Internet by using the "System for Electronic Rate and Form Filings" (SERFF) System; or~~
~~(b) a filing submitted via the Internet by using the Sircon system; or~~

~~(c) A filing submitted via an email system.~~

~~[(4)](5)~~ "Eligible group" means a group that meets the definitions in Sections 31A-22-502 through 31A-22-508.

~~[(5)](6)~~ "Endorsement" means a written agreement attached to a life insurance policy that alters a provision of the policy, for example, a war exclusion endorsement, a name change endorsement and a tax qualification endorsement.

~~[(6)](7)~~ "File and Use" means a filing can be used, sold, or offered for sale after it has been filed with the department.

~~[(7)](8)~~ "Filer" means a person or entity that submits a filing.

~~[(8)](9)~~ "Filing," when used as a noun, means an item required to be filed with the department including:

- (a) a policy;
- (b) a form;
- (c) a document;
- (d) an application;
- (e) a report;
- (f) a certificate;
- (g) an endorsement;
- (h) a rider;
- (i) a life insurance illustration;
- (j) a statement of policy cost and benefit information; and
- (k) an actuarial memorandum, demonstration, and certification.

~~(10) "Filing Objection Letter" means a letter issued by the commissioner when a review has determined the filing fails to comply with Utah law and rules. The filing objection letter, in addition to requiring correction of non-compliant items, may request clarification or additional information pertaining to the filing.~~

~~[(9)](11)~~ "Filing status information" means a list of the states to which the filing was submitted, the date submitted, and the states' actions, including their responses.

~~[(10)](12)~~ "Issue Ages" means the range of minimum and maximum ages for which a policy or certificate will be issued.

~~[(11)](13)~~ "Letter of Authorization" means a letter signed by an officer of the insurer on whose behalf the filing is submitted that designates filing authority to the filer.

~~[(12)](14)~~ "Market type" means the type of policy that indicates the targeted market such as individual or group.

~~[(13)](15)~~ "Order to Prohibit Use" means an order issued by the commissioner that ~~[forbids]~~ prohibits the use of a filing.

~~[(14)](16)~~ "Rejected" means a filing is:

(a) not submitted in accordance with applicable laws or rules;

(b) returned to the filer by the department with the reasons for rejection; and

(c) not considered filed with the department.

~~[(15)](17)~~ "Rider" means a written agreement attached to a life insurance policy or certificate that adds a benefit, for example, a waiver of premium rider, an accidental death benefit rider and a term insurance rider.

~~[(16)](18)~~ "Type of insurance" means a specific life insurance product including, but not limited to, term, universal, variable, or whole life. ~~[Refer to the NAIC Coding Matrix.]~~

~~(19) "Utah Filed Date" means the date provided to a filer by the Utah Insurance Department, that indicates a filing has been accepted pursuant to Subsection 7.~~

R590-226-5. General Filing Information.

(1) Each filing ~~[document]~~ submitted ~~[within the filing]~~ must be accurate, consistent, ~~[and]~~ complete. ~~[Each filing must]~~ and contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.

(2) ~~[Insurers]~~ Licensees and filers are responsible for assuring that a filing is in compliance with Utah laws and rules. ~~[F]~~ filings not in compliance with Utah laws and rules are subject to regulatory action under Section 31A-2-308.

(3) A filing that does not comply with this rule ~~[may]~~ will be rejected and returned to the filer. A rejected filing:

~~(a) is not considered filed with the department[-];~~

~~(b) must be submitted as a new filing; and~~

~~(c) will not be reopened for purposes of resubmission.~~

(4) A prior filing will not be researched to determine the purpose of the current filing.

(5) The department does not review or proofread every filing.

(a) ~~[F]~~ filing[s] may be reviewed:

(i) when submitted;

(ii) as a result of a complaint;

(iii) during a regulatory examination or investigation; or

(iv) at any other time the department deems necessary.

(b) If a filing is reviewed and is ~~[found to be]~~ not in compliance with Utah laws and rules, a Filing Objection Letter or an ~~[ORDER TO PROHIBIT USE]~~ Order To Prohibit Use will be issued to the filer. The commissioner may require the filer to disclose deficiencies in forms or rating practices to affected ~~[policyholders]~~ insureds.

(6) Filing Correction.

~~(a) Filing corrections are considered informational.~~

~~(b) Filing corrections must be submitted within 30 days of the date the original filing was submitted to the department.~~

~~[(a) No filing transmittal is required when making a correction to a misspelled word and punctuation in a filing. The filing will be considered an informational filing.~~

~~[(b) No transmittal is required when a clerical correction is made to a previous filing if submitted within 30 days of the date filed with the department.] The filer must reference the original filing [or include a copy of the original transmittal].~~

(c) A new filing is required if a ~~clerical~~ filing correction is made more than 30 days after the date the original filing was submitted to ~~filed with~~ the department. The filer must reference the original filing ~~or include a copy of the original transmittal~~.

(7) If responding to a Filing Objection Letter or an Order to Prohibit Use, refer to R590-226-15 for instructions.

(8) Filing withdrawal. A filer must notify the department when withdrawing a previously filed form, rate, or supplementary information.

R590-226-6. Filing Submission Requirements.

(1) All filing must be submitted electronically.

(2) A ~~F~~ filings must be submitted by market type and type of insurance.

(3) A filing may not include more than one type of insurance, or request filing for more than one insurer. ~~[-A complete filing consists of the following documents submitted in the following order:]~~

(4) SERFF Filings.

(a) Filing Description. Do not submit a cover letter. On the general information tab, complete the Filing Description section with the following information, presented in the order shown below.

(i) Provide a description of the filing.

(ii) Indicate if the filing:

(A) is new;

(B) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and the previous Utah Filed Date;

(C) includes forms for informational purposes; if so, provide the Utah Filed Date; or

(D) does not include the base policy; if so, provide the Utah Filed Date of the base policy and describe the effect on the base policy.

(iii) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.

(iv) Explain any change in benefits or premiums that may occur while the contract is in force.

(v) List the issue ages, which means the range of minimum and maximum ages for which a policy will be issued.

(vi) List the minimum death benefit.

(vii) Identify the intended market for filing, such as senior citizens, nonprofit organizations, association members, corporate owned, bank owned, etc.

(b) Certification. The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules. The "Utah Life Insurance Filing Certification for Individual" or the "Utah Life Insurance Filing Certification for Group" must be properly completed, signed, and attached to the supporting documentation tab. A false certification may subject the licensee or filer to administrative action.

(c) Domiciliary Approval and Filing Status Information. All filings for a foreign insurer must include on the supporting documentation tab:

(i) copy of domicile approval for the exact same filing;

(ii) filing status information, which includes:

(A) a list of the states to which the filing was submitted;

(B) the date submitted; and

(C) summary of the states' actions and their responses; or

(iii) if the filing is specific to Utah and only filed in Utah, then state, "UTAH SPECIFIC - NOT SUBMITTED TO ANY OTHER STATE."

(d) Group Questionnaire or Discretionary Group Authorization Letter. A group filing must attach to the supporting documentation tab either a:

(i) signed and fully completed "Utah Life and Annuity Group Questionnaire"; or

(ii) copy of the Utah Life and Annuity Discretionary Group Authorization letter.

(e) Letter of Authorization.

(i) When the filer is not the insurer, a letter of authorization from the insurer must be attached to the supplementary documentation tab.

(ii) The insurer remains responsible for the filing being in compliance with Utah laws and rules.

(f) Statement of Variability. Any item or provision on the data page or within the form that is variable must be contained within the brackets.

(i) List the ranges of variable items or factors within the brackets.

(ii) Each variable item must be identified and explained in a statement of variability.

(iii) If the information contained within the brackets changes, the form must be refilled.

(g) Life Insurance Illustration Materials. If the life insurance form is identified as illustrated, the filing must include a sample:

(i) basic illustration complete with data in John Doe fashion;

(ii) current illustration actuary's certification;

(iii) company officer certification; and

(iv) same annual report.

(h) Statement of Policy Cost and Benefit Information. If the life insurance form is not illustrated, the filing must include a sample of the Statement of Policy Cost and Benefit Information.

(i) Items being submitted for filing.

(i) Any forms must be attached to the form schedule tab.

(ii) Any rating documentation, including actuarial memorandums and rate schedules, must be attached to the rate or rule schedule.

(iii) Actuarial Memorandum, Demonstration, and Certification of Compliance. An actuarial memorandum, demonstration of compliance, and a certification of compliance are required in individual and group life insurance filings. The memorandum must be currently dated and signed by the actuary. The memorandum must include:

(A) description of the coverage in detail;

(B) demonstration of compliance with applicable nonforfeiture and valuation laws; and

(C) a certification of compliance with Utah law.

(5) Sircon Filings.

~~[(+)](a) Transmittal. [Note: Based on the use of the NAIC Transmittal Document, a cover letter is not required.]~~ The "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," as provided in R590-226-3, must be properly completed. ~~used~~

(i) Complete the transmittal by using the following:

(A) NAIC Life, Accident and Health, annuity, Credit Transmittal Document (instructions); and

~~(B) NAIC Uniform Life, Accident and Health, annuity and Credit Coding Matrix. [It can be found at www.insurance.utah.gov/LH_Trans.pdf.~~

~~(a) COMPLETE THE TRANSMITTAL BY USING THE FOLLOWING:~~

- ~~(i) "NAIC Coding Matrix"
www.insurance.utah.gov/LifeA&H_Matrix.pdf;
(ii) "NAIC" Instruction Sheet"
www.insurance.utah.gov/LH_Trans_Inst.pdf;
(iii) "Life Content Standards"
www.insurance.utah.gov/Life_STM.html.]~~

~~[(iv)](ii) Do not submit the documents described in [section]Subsections (a)(i)(A) and (B), [(ii), and (iii)]with a filing.~~

~~(b) Filing Description[Section]. Do not submit a cover letter. In Section 15 of the transmittal, complete [T]he Filing Description with the following information [must be included in the Filing Description Section of the NAIC transmittal and must be]presented in the order shown below[-].~~

- ~~(i) Provide a description of the filing.
(ii) Indicate if the filing:
(A) is new;
[(i) Domiciliary Approval and Filing Status Information. Foreign insurers and filers must first submit filings to their domicile state. All filings must include domicile and filing status information.~~

~~(A) If a filing was submitted to the domicile state, provide a stamped copy of the approval letter from the domicile state for the exact same filing; and~~

~~(B) If a filing was not submitted to the domicile state, or the domicile state did not provide specific approval for the filing, then the following alternate filing status information must be provided:~~

- ~~(I) a list of the states to which the filing was submitted;
(II) the date submitted;
(III) the states' actions and their responses.~~

~~(C) If the filing is specific to Utah and only filed in Utah, then Section 14 of the transmittal must be completed stating, "UTAH SPECIFIC - NOT SUBMITTED TO ANY OTHER STATE."~~

- ~~(ii) Marketing Facts.
(A) List the issue ages.
(B) List the minimum death benefit.
(C) Identify and describe the type of group.
(D) Identify the intended market for the filing, such as senior citizens, nonprofit organizations, association members, corporate owned, bank owned, etc.~~

~~(E) Describe the marketing and advertising in detail, i.e. through a marketing association, mass solicitation, electronic media, financial institutions, Internet, telemarketing, or individually through licensed producers.~~

~~(iii) Description of Filing.
(A) Provide a detailed description of the purpose of the filing.~~

~~(B) Describe the benefits and features of each form in the filing including specific features and options, including nonforfeiture options.~~

~~(C) Identify any new, unusual, or controversial provisions.
(D) Identify any unresolved previously prohibited provisions and explain why the provisions are included in the filing.~~

~~(E) Explain any changes in benefits, charges, terms, premiums, or other provisions that may occur while the policy is in force.~~

~~(F) If the filing]~~

~~(B) is replacing or modifying a previous submission[-]; if so, describe the changes made, if previously rejected the reasons for rejection, and the previous Utah Filed Date;~~

~~(C) [provide information that identifies the filing being replaced or modified, the Utah filed date, and a detailed description of the changes and highlight the changed provisions.~~

~~(G) If the filing] includes forms for informational purposes[-]; if so, provide the Utah Filed Date; or~~

~~(D) [provide the dates the forms were filed. If filing an application, rider, or endorsement, and the filing] does not include the base [contain a-]policy[-]; if so, provide[identify the affected policy form number,] the Utah [filed date,]Filed Date of the base policy, and describe the effect of the submitted forms on the base policy.~~

~~(iii) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.~~

~~(iv) Explain any change in benefits or premiums that may occur while the contract is in force.~~

~~(v) List the issue ages, which means the range of minimum and maximum ages for which a policy will be issued;~~

~~(vi) List the minimum death benefit~~

~~(vii) Identify the intended market for the filing, such as senior citizens, nonprofit organizations, association members, corporate owned, bank owned, etc.~~

~~[(iv)]Underwriting Methods. Provide a general explanation of the underwriting applicable to this filing.~~

~~(2)[(c) Certification. [In addition to completing the certification on the NAIC transmittal, the]The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules. [complete and submit the]The "Utah Life Insurance Filing Certification for Individual" or the "Utah Life Insurance Filing Certification for Group[-]" must be properly completed and signed. A false[-A filing will be rejected if the] certification [is missing or incomplete. A certification that is inaccurate] may subject the licensee or filer to administrative action.~~

~~(d) Domiciliary Approval and Filing Status Information. All filings for a foreign insurer must include:~~

- ~~(i) a copy of domicile approval for the exact same filing;
(ii) a filing status information which includes:
(A) a list of the states to which the filing was submitted;
(B) the date submitted; and
(C) summary of the states' actions and their responses; or~~

~~(iii) if the filing is specific to Utah and only filed in Utah, then section 14 of the transmittal must be completed stating, "UTAH SPECIFIC - NOT SUBMITTED TO ANY OTHER STATE."~~

~~[(3)](e) Group Questionnaire or Discretionary Group Authorization Letter. All group filings must attach[identify each type of group, and include] either a;~~

~~(i) signed and fully completed "Utah Life and Annuity Group Questionnaire[-]" or~~

~~(ii) a copy of the "Utah Life and Annuity Discretionary Group Authorization Letter."~~

~~[(4)](f) Letter of Authorization.~~

~~(i) When the filer is not the insurer, a letter of authorization from the insurer must be included.~~

~~(ii) The insurer remains responsible for the filing being in compliance with Utah laws and rules.~~

~~[(5)](g) Statement of Variability. Any item or provision on the data page or within the form that is variable must be contained within the brackets. List the ranges of variable items or factors within the brackets. Each variable item must be identified and explained in a~~

statement of variability. If the information contained within the brackets changes, the form must be refiled.

~~[(6)](h) Items being submitted for filing. Any form items submitted for filing must be attached to the product forms tab. [Refer to each applicable subsection of this rule for general procedures and additional procedures on how to submit forms and reports.~~

~~_____ (7)(i) Life Insurance Illustration Materials. If the life insurance form is identified as illustrated, the filing must include a sample:~~

~~[(a)](i) basic illustration completed with data in John Doe fashion;~~

~~[(b)](ii) current illustration actuary's certification;~~

~~[(c)](iii) company officer certification; and~~

~~[(d)](iv) sample annual report.~~

~~[(8)](i) Statement of Policy Cost and Benefit Information. If the life insurance form is not illustrated, the filing must include a sample of the Statement of Policy Cost and Benefit Information.~~

~~[(9)](k) Actuarial Memorandum, Demonstration, and Certification of Compliance. An actuarial memorandum, demonstration of compliance, and a certification of compliance are required in individual and group life insurance filings. The memorandum must be currently dated and signed by the actuary. The memorandum must include:~~

~~[(a)](i) description of the coverage in detail;~~

~~[(b)](ii) demonstration of compliance with applicable nonforfeiture and valuation laws; and~~

~~[(c)](iii) a certification of compliance with Utah law.~~

~~_____ (10) Return Notification Materials.~~

~~_____ (a) Return notification materials are limited to:~~

~~_____ (i) a copy of the transmittal; and~~

~~_____ (ii) a self-addressed, stamped envelope.~~

~~_____ (b) Notice of filing will not be provided unless return notification materials are submitted.~~

~~_____ (6) Email Filings - vatical providers only. The subject of the Email must display the company name only and be submitted to life.uid@utah.gov.~~

~~_____ (a) Filing Description.~~

~~_____ (i) Provide description of the forms being filed.~~

~~_____ (ii) Indicate if the filing:~~

~~_____ (A) is new;~~

~~_____ (B) is replacing or modifying a previous submission, if so, describe the changes made, if previously rejected the reasons for rejection, and the previous Utah Filed Date; and~~

~~_____ (C) if the filing includes forms for informational purposes, provide the Utah Filed Dates.~~

~~_____ (b) Letter of Authorization.~~

~~_____ (i) When the filer is not the licensee, a letter of authorization from the licensee must be attached.~~

~~_____ (ii) The licensee remains responsible for the filing being in compliance with Utah laws and rules.~~

~~_____ (c) Items being submitted for filing. Any items submitted for filing must be submitted in PDF format.~~

~~_____ (7) Refer to each applicable Section of this rule for additional procedures on how to submit forms and reports.~~

R590-226-7. Procedures for Filings.

(1) Forms in General.

(a) Forms are "File and Use" filings.

(b) Each form must[~~:~~

~~_____ (i)] be identified by a unique form number[~~; and~~]. The form number may not be variable.~~

~~[(ii)](c) Forms must contain a descriptive title on the cover page.~~

~~_____ (e) The form number and the policy cover page descriptive title may not be variable.~~

~~_____ (d) Forms must be in final printed form or printer's proof format. Drafts may not be submitted.~~

~~_____ (e) Specific sections may be filed with variable data by placing brackets around affected information. Variable data must be identified within the specific section, or on a separate sheet included with the submission.~~

~~_____ (f) Blank spaces within [F]the form must be completed in John Doe fashion to accurately represent the intended market, purpose, and use.~~

~~_____ (i) If the market intended is for the senior age group, the form must be completed with data representative of senior insureds.~~

~~_____ (ii) All John Doe data in the forms including the data page must be accurate and consistent with the actuarial memorandum, the basic illustration, the Statement of Policy Cost and Benefit information, and the application, as applicable.~~

~~_____ (iii) When submitting a rider or endorsement, include a sample policy data page that includes the rider or endorsement information.~~

~~_____ (iv) Forms may include variable data within brackets. All variable data must be identified within the specific section, or a statement of variability included with the submission.~~

~~_____ (2) Application Filing.~~

~~_____ (a) Each application or enrollment form may be submitted as a separate filing or may be filed with its related policy or certificate filing.~~

~~_____ (b) If an application has been previously filed or is filed separately, an informational copy of the application must be included with the policy or certificate filing.~~

~~[(2)](3) Policy Filings.~~

~~_____ (a) Each type of insurance must be filed separately.~~

~~_____ (b) A policy filing consists of one policy form, [for a single type of insurance] including its related forms, such as the application, sample data page, rider, endorsement, and actuarial memorandum.~~

~~[(b)](c) A policy data page must be included with every policy filing.~~

~~[(c)](d) Only one policy form for a single type of insurance may be filed, in each filing a life insurance policy with different premium payment periods is considered one form.~~

~~[(d)](c) A policy data page that changes the basic feature of the policy may not be filed without including the entire policy form in the filing. A filing consisting of only a data page without the policy form will be rejected as incomplete.~~

~~[(3)](4) Rider or Endorsement Filing.~~

~~_____ (a) Related riders or endorsements may be filed together [as a single filing].~~

~~_____ (b) A single rider or endorsement that affect multiple forms may be filed if the Filing Description references all affected forms.~~

~~_____ (c) A rider or endorsement that is based on morbidity risks, such as critical illness or long-term care, is considered accident and health insurance and must be filed in accordance with Rule R590-220, "Accident and Health Insurance Filings."~~

~~_____ (e) A single rider or endorsement that affects multiple policy forms may be filed separately if the Filing Description references all affected forms.~~

~~_____ (d) The filing must include:~~

~~_____ (i) a listing of all base policy form numbers, title and [dates filed with the] Utah Filed Dates [Insurance Department];~~

- (ii) a description of how each filed rider or endorsement affects the base policy; and
- (iii) a sample data page with data for the submitted form.
- (e) Unrelated riders or endorsement may not be filed together.

~~(4) Application Filings. Each application or enrollment form may be submitted as a separate filing or may be filed with its related policy or certificate filing. If an application has been previously filed or is filed separately, an informational copy of the application must be included with the policy or certificate filing.~~

R590-226-9. Additional Procedures for Group Market Filings.

(1) Insurers submitting group life insurance filings are advised to review the following code sections and rules prior to submitting a filing:

- (a) Section 31A-21 Part III, "Specific Clauses in Contracts;"
- (b) Section 31A-22 Part IV, "Life Insurance and Annuities;"
- (c) Section 31A-22 Part V, "Group Life Insurance;"
- (d) R590-79, "Life Insurance Disclosure Rule;" and
- (e) R590-191, "Unfair Life Insurance Claims Settlement Practice."

(2) A policy must be included with each certificate filing along with a master application and enrollment form.

(3) Statement of Policy Cost and Benefit Information. A statement of policy cost and benefit information must be included in non-term group life insurance and preneed funeral policies or rearrangements. This disclosure requirement shall extend to the issuance or delivery of certificates as well as to the master policy in compliance with R590-79-3.

(4) Actuarial Memorandum. An actuarial memorandum must be included in all group life insurance filings describing the coverage in detail and certifying compliance with applicable laws and rules. For non-term group life filings, the memorandum must also demonstrate nonforfeiture compliance with Section 31A-22-515.

(5) Eligible Group. A filing for an eligible group must include a completed "Utah Life and Annuity Group Questionnaire."

(a) A questionnaire must be completed for each eligible group under Section 31A-22-502 through 508.

(b) When a filing applies to multiple employer-employee groups under Section 31A-22-502, only one questionnaire is required to be completed.

(6) Discretionary Group. If a group is not an eligible group, then specific discretionary group authorization must be obtained prior to submitting the filing. If a form filing is submitted without discretionary group authorization, the filing will be rejected.

(a) To obtain discretionary group authorization a "Utah Life and Annuity Request For Discretionary Group Authorization" must be submitted and include all required information.

(b) Evidence or proof of the following items are some factors considered in determining acceptability of a discretionary group:

- (i) existence of a verifiable group;
- (ii) that granting permission is not contrary to public policy;
- (iii) the proposed group would be actuarially sound;
- (iv) the group would result in economies of acquisition and administration which justify a group rate; and
- (v) the group would not present hazards of adverse selection.
- (c) Discretionary group filings that do not provide authorization documentation will be rejected.

(d) Any changes to an authorized discretionary group must be submitted to the department, such as; change of name, trustee, domicile state, within 30 days of the change.

(e) The commissioner may periodically re-evaluate the group's authorization.

R590-226-11. Additional Procedures for Combination Policies, Riders or Endorsements Providing [a Combination of] Life and Accident and Health Benefits.

A filer submitting life and health combination policies, or health riders or endorsement to life policies, is advised to review Rule R590-220.

(1) A combination filing [~~consists of~~] is a policy, rider, or endorsement [~~that~~] which creates a product that provides both life and accident and health insurance benefits.

(a) The two types of acceptable combination filings are [~~:-~~]
~~(a) a rider or endorsement [attached to a policy;] or~~
~~(b) an integrated policy.~~

~~(2)(b)~~ Combination filings take considerable time to process, and will be processed [~~separately~~] by both the [~~life insurance and the health insurance divisions;~~] Health Insurance Division, and the Life Section of the Life, Property and Casualty Insurance Division.

~~(3)(2)~~ A [~~combination~~] filing[s] must [~~include transmittals for both the life insurance and the health insurance divisions;~~] be submitted separately to both the Health Insurance Division and the Life Section of the Life, Property and Casualty Insurance Division.

~~(4)(3)(a)~~ For an integrated policy, the filing must be submitted to the appropriate division based on benefits provided in the base policy.

(b) For a rider or endorsement, the filing must be submitted to the appropriate division based on benefits provided in the rider or endorsement.

~~(5)(4)~~ The Filing Description must identify the filing as having a combination of insurance types, such as:

- (a) term policy with a long-term care benefit rider; or
- (b) major medical health policy that includes a life insurance benefit.

R590-226-12. Additional Procedures for Viatical Settlements.

(1) Insurers submitting Viatical Settlements filings are advised to review the following code sections and rules prior to submitting a filing:

- (a) Section 31A-36, "Viatical Settlements Act;"
- (b) Rule R590-222, "Viatical Settlements."

(2) The form filing is to be submitted via email to life.uid@utah.gov.

R590-226-12; R590-226-13. Insurer Annual Reports.

(1) All insurer annual reports must be properly identified and must be filed separately from other filings. Each annual report must be submitted along with the properly completed report checklist.

(2) "Life Insurance Illustration Certification Annual Report".

(a) Filing must comply with R590-177-11. Life insurers marketing life insurance with an illustration shall provide an annual certification report to the commissioner each year by a date determined by the insurer.

(b) The report must include:

(i) a completed "Utah Life Insurance Illustration Certification Annual Report Checklist";

(ii) ~~two cover letters along with a self-addressed stamped envelope;~~

~~(iii) an Illustration Actuary's Certification signed and dated;~~

~~(iv) a Company Officer's Certification signed and dated; and~~

~~(v) a list of all policies forms for which the certification applies.~~

~~R590-226-13. Electronic Filings.~~

~~Filers submitting electronic filings must follow the requirements for both the electronic system and this rule, as applicable.~~

R590-226-14. Correspondence~~s~~ and Status Checks~~s~~ and Responses~~s~~.

(1) Correspondence. When corresponding with the department, filers must provide sufficient information to identify the original filing:

- (a) type of insurance;
- (b) date of filing;
- (c) form numbers; ~~and~~
- (d) submission method, SERFF, Sircon or EMAIL; and
- (e) tracking number ~~copy of the original transmittal~~.

(2) Status Checks. A complete filing is usually processed within 45 days of receipt. A filer may request the status of their filing by telephone, or email 60 days after the date of submission.

R590-226-15. Responses.

(1) Response to a Filing Objection Letter. A response to a Filing Objection Letter must include:

- (a) a cover letter identifying all changes made;
- (b) revised documents with all changes highlighted; and
- (c) revised documents incorporating all changes without highlights.

(2) Response to an Order to Prohibit Use.

(a) An Order to Prohibit Use becomes final 15 days after the date of the order.

(b) Use of the filing must be discontinued not later than the date specified in the order.

(c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing not later than 15 days after the date of the order.

(d) A new filing is required if the company chooses to make the requested change addressed in the Filing Objection Letter. The new filing must reference the previously prohibited filing.

~~(3) Response to an Order.~~

~~(a) A response to an order must include:~~

- ~~(i) a response cover letter identifying the changes made;~~
- ~~(ii) a copy of the Order to Prohibit Use;~~
- ~~(iii) one copy of the revised documents with all changes highlighted; and~~
- ~~(iv) return notification materials, which consist of a copy of the response cover letter and a self-addressed stamped envelope.~~

~~(4) Rejected Filings:~~

~~(a) A rejected filing is NOT considered filed. If resubmitted it is considered a new filing.~~

~~(b) If resubmitting a previously rejected filing, the new filing must include a copy of the rejection notice.~~

]

~~R590-226-15.~~R590-226-16. Penalties.

Persons found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

~~R590-226-16.~~R590-226-17. Enforcement Date.

The commissioner will begin enforcing the revised provisions of this rule upon the effective date of this rule.

~~R590-226-17.~~R590-226-18. Severability.

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

KEY: life insurance filings

Date of Enactment or Last Substantive Amendment: ~~September 7, 2006~~ 2007

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-201.1; 31A-2-202



Insurance, Administration R590-228

Submission of Credit Life and Credit Accident and Health Insurance Form and Rate Filings

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29971

FILED: 05/25/2007, 13:31

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Based on a need to store filings electronically and an increasing number of electronic filings, a policy change was made to require only electronic filings.

SUMMARY OF THE RULE OR CHANGE: The rule changes set standards for electronic filing. While reviewing the rule, numerous format and grammatical changes were suggested to enhance clarity.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-201.1, 31A-2-202, and 31A-2-207

THIS RULE OR CHANGE INCORPORATES BY REFERENCE THE FOLLOWING MATERIAL: "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," dated March 1, 2007; "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix," dated March 1, 2007; "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document (Instructions)," dated March 1, 2007; "Utah Credit Life and Credit Accident and Health Filing Certification," dated July

2007; and "Utah Annual Credit Life and Credit Accident and Health Insurance Filing Checklist," dated July 2007

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There will be a mid-term savings due to reduced need to store paper and an immediate savings in time and workload due to less incoming mail and the need to handle paper filings. There will be no change in the fees coming into the department.
- ❖ **LOCAL GOVERNMENTS:** The changes to this rule will have no effect on local governments since the rule deals solely with the relationship between the department and their licensees.
- ❖ **OTHER PERSONS:** For those insurers not already filing electronically, there will be a transaction fee of \$6 to \$15 per filing. Some of this will be offset by the elimination of printing and mailing costs. There will be minimal, if any, fiscal impact on consumers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: For those insurers not already filing electronically, there will be a transaction fee of \$6 to \$15 per filing. Some of this will be offset by the elimination of printing and mailing costs. There will be minimal, if any, fiscal impact on consumers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact of these changes on credit life and credit accident and health insurers will be minimal and will vary according to the size and number of filings an insurer sends to the department. D. Kent Michie, Commissioner

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

**INSURANCE
ADMINISTRATION**
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2007

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-228. Submission of Credit Life and Credit Accident and Health Insurance Form and Rate Filings.

R590-228-3. Documents Incorporated by Reference.

(1) The department requires that documents described in this rule ~~must~~ shall be used for all filings.

~~(a)~~ Actual copies may be used or you may adapt them to your word processing system.

~~(b)~~ If adapted, the content, size, font, and format must be similar.

(2) The following documents are hereby incorporated by reference and are available at www.insurance.utah.gov.

(a) "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," dated ~~January 1, 2005~~ March 1, 2007;

(b) "NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix," dated ~~January 1, 2005~~ March 1, 2007;

(c) "NAIC ~~Instruction Sheet for~~ Life, Accident and Health, Annuity, Credit Transmittal Document (Instructions)," dated ~~January 1, 2003~~ March 1, 2007;

~~(d)~~ "NAIC ~~Instruction Sheet for~~ Life, Accident and Health, Annuity, Credit Transmittal Document Form Filing Attachment," dated ~~January 1, 2003~~;

~~(e)~~ ~~(d)~~ "Utah Credit Life and Credit Accident and Health Filing Certification," dated ~~January 1, 2004~~ July 2007;

~~(f)~~ "Utah Life, Annuity, Credit Life, and Credit Accident and Health Group Questionnaire," dated ~~January 1, 2004~~;

~~(g)~~ ~~(c)~~ "Utah Annual Credit Life and Credit Accident and Health Insurance Filing Checklist," dated ~~January 1, 2004~~ July 2007.

R590-228-4. Definitions.

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

(1) ~~"Alternate information" means:~~

~~(a) a list of the states to which the forms have been filed, the dates submitted, and any state actions;~~

~~(b) the reason for not submitting the form to the domicile state; and~~

~~(c) identifying any points of conflict between the form and domicile state laws or rules.~~

~~(2)~~ "Certification" means a statement that the filing being submitted is in compliance with Utah laws and rules.

~~(3)~~ ~~(2)~~ "Data page" means the page or pages in a policy and certificate that provide the specific data for the insured detailing the coverage provided and may be titled by the insurer as schedule page, schedule of benefits and premiums, etc.

~~(3)~~ "Electronic Filing" means:

~~(a) a filing submitted via the Internet by using the "System for Electronic Rate and Form filing: (SERFF) System; or~~

~~(b) a filing submitted via the Internet by using the Siron system; or~~

~~(c) A filing submitted via an email system.~~

(4) "Eligible group" means a group that meets the definitions in Sections 31A-22-502 through 31A-22-508.

(5) "Endorsement" means a written agreement attached to a life insurance policy that alters a provision of the policy. An example is a company change of name.

(6) "File and Use" means a filing can be used, sold, or offered for sale after it has been filed with the department.

(7) "File for Approval" means a filing can be used, sold, or offered for sale after it has been filed and the filer has received written confirmation that the filing was approved.

(8) "Filer" means a person or entity that submits a filing.

(9) "Filing," when used as a noun, means an item required to be filed with the department including:

(a) a policy;

(b) a rate, rate methodologies;

(c) a form;

- (d) a document;
- (e) an application;
- (f) a report;
- (g) a certificate;
- (h) an endorsement;
- (i) a rider; and
- (j) an actuarial memorandum and certification.

(10) "Filing Objection Letter" means a letter issued by the commissioner when a review has determined the filing fails to comply with Utah law and rules. The filing objection letter, in addition to requiring correction of non-compliant items, may request clarification or additional information pertaining to the filing.

(11) "Filing status information" means a list of the states to which the filing was submitted, the date submitted, and the states' actions, including their responses

(12) "Issue Ages" means the range of minimum and maximum ages for which a policy or certificate will be issued.

(13) "Letter of Authorization" means a letter signed by an officer of the insurer on whose behalf the filing is submitted that designates filing authority to the filer.

(14) "Market type" means the type of policy that indicates the targeted market such as individual or group.

(15) "Order to Prohibit Use" means an order issued by the commissioner that ~~forbids~~ prohibits the use of a filing.

(16) "Rejected" means a filing is:

(a) not submitted in accordance with applicable laws or rules; and

(b) returned to the insurer by the department with the reasons for rejection; and not considered filed with the department.

(17) "Rider" means a written agreement attached to a life insurance policy or certificate that adds a benefit. An example is a credit accident and health insurance rider.

(18) "Type of insurance" means a specific credit life and credit accident and health insurance product, as defined in the NAIC Coding Matrix, including, but not limited to, gross decreasing term, net decreasing term, level term, or truncated coverage. ~~Refer to the NAIC Coding Matrix.~~

(19) "Utah Filing Date" means the date provided to a filer by the Utah Insurance Department, that indicates a filing has been accepted pursuant to this subsection 6 or 7.

R590-228-5. General Filing Information.

(1) Each filing submitted must be accurate, consistent, and complete and contain all required documents in order for the filing to be processed in a timely and efficient manner. The commissioner may request any additional information deemed necessary.

(2) ~~Insurers~~ Licensees and filers are responsible for assuring that a filing is in compliance with Utah laws and rules. A [F]filing[s] not in compliance with Utah laws and rules are subject to regulatory action under Section 31A-2-308.

(3) A [F]filings that do not comply with this rule ~~may~~ will be rejected and returned to the filer. A [R]rejected filing[s] ~~are not considered filed with the department~~;

(a) is not considered filed with the department;

(b) must be submitted as a new filing; and

(c) will not be reopened for purposes of resubmission.

(4) A prior filing[Prior filings] will not be researched to determine the purpose of the current filing.

(5) The department does not review or proofread every filing.

(a) Filings may be reviewed:

- (i) when submitted;
- (ii) as a result of a complaint;
- (iii) during a regulatory examination or investigation; or
- (iv) at any other time the department deems necessary.

(b) If a filing is reviewed and is ~~found to be~~ not in compliance with Utah laws and rules, a Filing Objection Letter or an ~~[ORDER TO PROHIBIT USE]~~ Order To Prohibit Use will be issued to the filer. The commissioner may require the filer to disclose deficiencies in forms or rating practices to affected insureds.

(6) Filing Correction.

(a) Filing corrections are considered informational.

(b) Filing corrections must be submitted within 30 days of the date "Filed" with the department.

(c) A new filing is required if a clerical [or typographical] corrections [are] is made more than 30-days after the [filed] date [of the original filing] "Filed" with the department. The filer [will need to] must reference the original filing.

(7) If responding to a Filing Objection Letter or an Order to Prohibit Use, refer to R590-220-XX for instructions.

(8) Filing withdrawal. A filer must notify the department when withdrawing a previously filed form, rate, or supplementary information.

R590-228-6. Filing Submission Requirements.

(1) All filings must be submitted as an electronic filing.

(2) A [F]filings must be submitted by market type and type of insurance.

(3) A filing may not include more than one type of insurance; or request filing for more than one insurer. ~~—A complete filing consists of the following documents submitted in the following order:]~~

(4) SERFF Filings.

(a) Filing Description. Do not submit a cover letter. On the general information tab, complete the Filing Description section with the following information, presented in the order shown below.

(i) Provide a description of the filing.

(ii) Indicate if the filing:

(A) is new;

(B) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and the previous filing's Utah Filed Date;

(C) includes forms for informational purposes; if so, provide the Utah Filed Date; or

(D) does not include the base policy; if so, provide the Utah Filed Date of the base policy and describe the effect on the base policy.

(iii) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.

(iv) Explain any change in benefits or premiums that may occur while the contract is in force.

(v) List the types of coverage to be provided, such as gross, net, full term, truncated and critical period.

(vi) Indicate whether the insurer has a Rating and Benefits Plan on file with the department.

(vii) List the issue ages, which means the range of minimum and maximum ages for which a policy will be issued.

(viii) Identify the intended market

(ix) Identify the types and durations of loans to be insured.

(x) Describe the methods of premium charge.

(b) Certification. The filer must certify that a filing has been properly completed AND is in compliance with Utah laws and rules. The "Utah Credit Life and Credit Accident and Health Filing Certification" must be properly completed, signed, and attached to the supporting documentation tab. A false certification may subject the licensee or filer to administrative action.

(c) Domiciliary Approval and Filing Status Information. All filings for a foreign insurer must include on the supporting documentation tab:

(i) copy of domicile approval for the exact same filing;
(ii) filing status information which includes:
(A) a list of the states to which the filing was submitted;
(B) the date submitted; and
(C) summary of the states' actions and their responses; or
(iii) if the filing is specific to Utah and only filed in Utah, then state, "UTAH SPECIFIC - NOT SUBMITTED TO ANY OTHER STATE."

(d) Letter of Authorization.

(i) When the filer is not the insurer, a letter of authorization from the insurer must be attached to the supplementary documentation tab.

(ii) The insurer remains responsible for the filing being in compliance with Utah laws and rules.

(e) Statement of Variability. Any item or provision on the data page or within the form that is variable must be contained within the brackets. List the ranges of variable items or factors within the brackets. Each variable item must be identified and explained in a statement of variability. If the information contained within the brackets changes, the form must be refilled.

(f) Items being submitted for filing.

(i) Any forms must be attached to the form schedule tab.

(ii) Any rating documentation, including actuarial memorandums and rate schedules, must be attached to the rate/rule schedule.

(iii) Actuarial Memorandum, Demonstration, and Certification of Compliance. An actuarial memorandum and demonstration with sample rate calculations and a certification of compliance with Utah law are required in each filing. The memorandum must be currently dated and signed by the actuary.

(5) Sircon Filings.

(4)(a) Transmittal. [Note: Based on the use of the NAIC Transmittal Form, a cover letter is not required.] The "NAIC Life, Accident and Health, Annuity, Credit Transmittal Document," as provided in R590-228-3, must be [used] properly completed. [It can be found at www.insurance.utah.gov/LH_Trans.pdf.

(a) COMPLETE THE TRANSMITTAL BY USING THE FOLLOWING:]

(i) Completed the transmittal by using the following:

(A) NAIC Life, Accident and Health, Annuity, Credit Transmittal Document (Instructions); and

(B) ["]NAIC Uniform Life, Accident and Health, Annuity and Credit Coding Matrix.["] [www.insurance.utah.gov/LifeAandH_Matrix.pdf,

(ii) "NAIC" Instruction Sheet"

www.insurance.utah.gov/LH_Trans_Inst.pdf,

(iii) "Life Content Standards"

www.insurance.utah.gov/Life_STM.html

(iv)(ii) Do not submit the documents described in S[s]ection (a)(i) (A) and (B) [-(ii), and (iii)] with [a] the filing.

(b) Filing Description. Do not submit a cover letter. In Section 15 of the transmittal, complete the [The following information

must be included in the] Filing Description [section of the transmittal and must be] with the following information presented in the order shown below.

(i) Domicile Approval. Foreign insurers and filers must first submit filings to their domicile state.

(A) If a filing was submitted to the domicile state, provide a stamped copy of the approval letter from the domicile state for the filing.

(B) If a filing was not submitted to the domicile state, or the domicile state did not provide specific approval for the filing, then alternate information must be provided.

(ii) Marketing Facts.

(A) List the issue ages.

(B) Identify the intended market.

(C) Identify and describe the type of group.

(D) Identify the types and durations of loans to be insured.

(E) Describe the methods of premium charge.

(F) Describe the marketing and advertising in detail, i.e. through mass solicitation, financial institutions, telemarketing, or individually through licensed producers.

(iii) Description of Filing.

(A)(i) Provide a [detailed] description [of the purpose] of the filing.

(ii) Indicate if the filing:

(A) is new;

(B) is replacing or modifying a previous submission; if so, describe the changes made, if previously rejected the reasons for rejection, and the previous filing's Utah Filed Date;

(C) includes forms for informational purpose; if so, provide the Utah Filed Date; or

(D) does not include the base policy; if so, provide the Utah Filed Date of the base policy and describe the effect on the base policy.

(iii) Identify if any of the provisions are unusual, controversial, or have been previously objected to, or prohibited, and explain why the provision is included in the filing.

(B) Describe the benefits and features of each form.

(C)(iv) List the types of coverage to be provided, such as gross, net, full term, truncated and critical period.

(D)(v) Identify and describe any new or nonstandard benefits or rating methodologies.

(E)(vi) Indicate whether the insurer has a Rating and Benefits Plan on file with the department.

(vii) Explain any change in benefits or premiums that may occur while the contract is in force.

(viii) List the issue ages, which means the range of minimum and maximum ages for which a policy will be issued.

(ix) Identify the types and durations of loans to be insured.

(x) Describe the methods of premium charge.

(F) Identify any unresolved previously prohibited provisions and explain why the provisions are included in the current filing.

(G) If the filing is replacing or modifying a previous submission, provide information that identifies the filing being replaced or modified, the Utah filed date, and a detailed description of the changes and highlight the changed provisions.

(H) if the filing includes forms for informational purposes, provide the dates the forms were filed.

(I) if filing a rider, endorsement or application and the filing does not contain a policy, identify the affected policy form number, the

Utah filed date, and describe the effect of the submitted forms on the base policy.

~~(iv) Underwriting Methods. Provide an explanation of the underwriting applicable to the filing.~~

~~(2)(c) Certification. The filer must certify that a filing has been properly completed AND is compliance with Utah laws and rules. [In addition to completing the certification on the NAIC transmittal, the filer must complete and submit the] The "Utah Credit Life and Credit Accident and Health Filing Certification "must be properly completed and signed. [A filing will be rejected if the certification is missing or incomplete.] A false certification [that is inaccurate] may subject the licensee or filer to administrative action.~~

~~(d) Domiciliary Approval and Filing Status Information. All filings for a foreign insurer must include:~~

~~(i) a copy of domicile approval for the exact same filing;~~

~~(ii) a filing status information which includes:~~

~~(A) a list of the states to which the filing was submitted;~~

~~(B) the date submitted; and~~

~~(C) summary of the states' actions and their responses; or~~

~~(iii) if the filing is specific to Utah and only filed in Utah, then section 14 of the transmittal must be completed stating, "UTAH SPECIFIC - NOT SUBMITTED TO ANY OTHER STATE."~~

~~(3)(e) Group Questionnaire. All group filings must include [a] signed and fully completed "Utah Life and Annuity Group Questionnaire" [group questionnaire].~~

~~(4)(f) Letter of Authorization.~~

~~(i) When the filer is not the insurer, include a letter of authorization from the insurer.~~

~~(ii) The insurer remains responsible for the filing being in compliance with Utah laws and rules.~~

~~(5)(g) Statement of Variability. Any information that is variable must be bracketed in the form and must be explained in a statement of variability. If after filing, the information contained within the brackets changes, the filing must be refiled.~~

~~(6)(h) Items being submitted for filing. Any form or rate items submitted for filing must be attached to the product forms tab. [Include all forms, rates, and reports to be filed. Refer to each applicable subsection of this rule for procedures on how to submit forms, rates, and reports with required filing documents.]~~

~~(7)(i) Actuarial Memorandum, Demonstration, and Certification of Compliance. An actuarial memorandum with sample rate calculations and a certification of compliance are required in each filing. The memorandum must be currently dated and signed by the actuary representing the insurer.~~

~~(8)(j) Rates. All rates must be filed prior to use. All rates must be in compliance with 31A-22-807 and R590-91. A rate filing is required with each form filing.~~

~~(9) Return Notification Materials.~~

~~(a) Return notification materials are limited to a copy of the transmittal and a self-addressed, stamped envelope.~~

~~(b) Notice of filing will not be provided unless return notification materials are submitted.~~

~~(6) refer to each applicable Section of this rule for additional procedures on how to submit forms, rates, and reports.~~

R590-228-7. Procedures for Filings.

(1) Forms in General.

(a) Forms are "File and Use" filings.

(b) Each form must be identified by a unique form number. The form number may not be variable.

(c) Forms must be in final printed form or printer's proof format.

(d) Specific sections may be filed with variable data by placing brackets around affected information. Variable data must be identified within the specific section, or on a separate sheet included with the submission

~~[(4)(e) Blank spaces within the forms [The form] must be completed in John Doe fashion to accurately represent the intended market, purpose, and use. All John Doe data in the forms, including the premium rates and benefits, must be accurate and consistent with the actuarial memorandum and rate schedule. [Forms may include variable data in brackets. All variable data must be identified within the brackets or a statement of variability must be included with the submission.]~~

(2) Policy Filings.

(a) Each type of insurance must be filed separately.

(b) A policy filing consists of one policy form, [for a single type of insurance and] including its related forms, including the application, enrollment form, certificate, actuarial memorandum, certification, and rate schedule.

(c) Only one policy filing for a single type of insurance may be filed.

(3) Rider or Endorsement Filings. A rider or endorsement that provides benefits must include all filing documents required for a policy filing including:

(a) a listing of the base policy form number, title and Utah Filed Dates [dates filed with the department];

(b) a description of how the rider or endorsement affects the base policy; and

(c) appropriate actuarial memorandum and rate schedule.

(4) Application Filings. An application or enrollment form may be submitted as a separate filing or filed with its related policy and certificate. If an application has been previously filed or is filed separately, an informational copy of the application must be included with a policy or certificate filing.

(5) Rates. Rates are considered "File for Approval".

R590-228-9. Insurer Annual Reports.

(1) All insurer annual reports must be properly identified and must be filed separately from other filings. Each annual report must be submitted along with the properly completed report checklist.

(2) "Credit Life and Credit Accident and Health Annual Report."

(a) Filings must comply with R590-91-10. Every Credit Life, and Credit Accident and Health insurer marketing must file annually.

(b) The report must include:

(i) Utah Credit Life, and Credit Accident and Health Report Checklist;

(ii) ~~[a cover letter along with a self-addressed stamped envelope; and all required documents.]~~

~~[(iii)] Annual report filings are due May 1 each year.~~

R590-228-10. [Additional Procedures for Electronic Filings.]

~~Filers submitting electronic filings must follow the requirements for both the electronic system and this rule, as applicable.~~

R590-228-11.] Correspondence[, Inquiries, and Responses] and Status Checks.

(1) Correspondence. When corresponding with the department, filers must provide sufficient information to identify the original filing. Information should include:

- (a) type of insurance;
- (b) date of filing;
- (c) form numbers; and
- (d) ~~copy of the original transmittal.~~ Submission method, SERFF or Sircon; and
- (e) tracking number.

(2) Status Checks. A complete filing is usually processed within 45 days or receipt. A [F] filer can request the status of [their] its filing by telephone, or email 60 days after the date of submission.

(3) ~~Response to an Order.~~
~~(a) A response to an order must include:~~
~~(i) a response cover letter identifying the changes made;~~
~~(ii) a copy of the Order to Prohibit Use;~~
~~(iii) one copy of the revised documents with all changes highlighted; and~~
~~(iv) return notification materials, which consist of a copy of the response cover letter and a self-addressed stamped envelope.~~

(4) ~~Rejected Filings. A rejected filing is NOT considered filed. If resubmitted it is considered a new filing. If resubmitting a previously rejected filing, the new filing must include a copy of the rejection notice.~~

R590-228-11. Responses.

(1) Response to a Filing Objection Letter. A response to a Filing Objection Letter must include:

- (a) a cover letter identifying all changes made;
- (b) revised documents with all changes highlighted; and
- (c) revised documents incorporating all changes without highlights.

(2) Response to an Order to Prohibit Use.
 (a) An Order to Prohibit Use becomes final 15 days after the date of the Order.
 (b) Use of the filing must be discontinued not later than the date specified in the Order.

(c) To contest an Order to Prohibit Use, the commissioner must receive a written request for a hearing not later than 15 days after the date of the Order.

(d) A new filing is required if the company chooses to make the requested change addressed in the Filing Objection Letter. The new filing must reference the previously prohibited filing.

KEY: credit insurance filings

Date of Enactment or Last Substantive Amendment: ~~April 28, 2005~~ **2007**

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-201.1; 31A-2-202



Insurance, Administration
R590-233-4
 Prohibited Policy Provisions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29999

FILED: 05/31/2007, 12:05

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Representatives of the health insurance industry have requested that the allowable Exclusions subsection of this rule be changed.

SUMMARY OF THE RULE OR CHANGE: The department has deleted the reference to gastric bypass in the cosmetic exclusion and have created a stand-alone exclusion clarifying that all gastric surgeries related to obesity are excluded.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-201, 31A-2-202, 31A-23a-412, 31A-22-605, 31A-22-623, 31A-22-626, 31A-23a-402, and 31A-26-301

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There will be no change to the state or the department's budgets. The changes will not require additional filings, fees, or changes in the department's workload. This is a change that reflects what is already being done in the marketplace.

❖ LOCAL GOVERNMENTS: Since the changes to this rule deal solely with the relationship between the department and its licensees, it will have no effect on local government.

❖ OTHER PERSONS: The changes clarify that all gastric surgeries related to obesity are excluded. Since this is the interpretation the industry has given the rule already, it will have no effect on insurers and consumers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The changes clarify that all gastric surgeries related to obesity are excluded.

Since this is the interpretation the industry has given the rule already, it will have no effect on insurers and consumers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes are a clarification of how the rule is already being applied by the industry. As a result, the changes being made will have no fiscal impact on Utah businesses. D. Kent Michie, Commissioner

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

INSURANCE
 ADMINISTRATION
 Room 3110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY UT 84114-1201, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2007

AUTHORIZED BY: Jilene Whitby, Information Specialist

R590. Insurance, Administration.

R590-233. Health Benefit Plan Insurance Standards.

R590-233-4. Prohibited Policy Provisions.

(1) Probationary periods.

(a) A policy shall not contain provisions establishing a probationary period during which no coverage is provided under the policy except as provided in R590-233-4(1)(b), (c), and (d).

(b) A policy may specify a probationary period not to exceed twelve months for losses resulting from:

- (i) amenorrhea;
- (ii) cataracts;
- (iii) congenital deformities, unless coverage is required pursuant to Subsection 31A-22-610(2);
- (iv) cystocele;
- (v) dysmenorrhea;
- (vi) enterocele;
- (vii) infertility;
- (viii) rectocele;
- (ix) seasonal allergies, limited to testing and treatment;
- (x) sleep disorders, including sleep studies;
- (xi) surgical treatment for:
 - (A) adenoidectomy,
 - (B) bunionectomy,
 - (C) carpal tunnel,
 - (D) hysterectomy, except in cases of malignancy,
 - (E) joint replacement,
 - (F) reduction mammoplasty,
 - (G) Morton's neuroma,
 - (H) myringotomy and tympanotomy, with or without tubes

inserted,

(I) nasal septal repair, except for injuries after the effective date of coverage,

- (J) retained hardware removal,
- (K) sterilization, and
- (L) tonsillectomy;
- (xii) urethrocele;
- (xiii) uterine prolapse; and
- (xiv) varicose veins.

(c) Coverage must be provided for conditions and procedures prohibited in Subsection (1)(b) for emergency medical conditions in compliance with Section 31A-22-627.

(d) The probationary period must be reduced by the number of days of creditable coverage the enrollee has as of the enrollment date, in accordance with Subsection 31A-22-605.1(4)(b).

(2) Preexisting conditions provisions shall comply with Sections 31A-1-301, and 31A-22-605.1.

(3) Limitations or exclusions. A policy shall not limit or exclude coverage or benefits by type of illness, accident, treatment or medical condition, except as follows:

- (a) abortion;
- (b) acupuncture and acupressure services;

(c) administrative charges for completing insurance forms, duplication services, interest, finance charges, or other administrative charges, unless otherwise required by law;

(d) administrative exams and services;

(e) alcoholism and drug addictions;

(f) allergy tests and treatments;

(g) aviation;

(h) axillary hyperhidrosis;

(i) benefits provided under:

(i) Medicare or other governmental program, except Medicaid;

(ii) state or federal worker's compensation; or

(iii) employer's liability or occupational disease law.

(j) cardiopulmonary fitness training, exercise equipment, and membership fees to a spa or health club;

(k) charges for appointments scheduled and not kept;

(l) chiropractic;

(m) complementary and alternative medicine;

(n) corrective lenses, and examination for the prescription or fitting thereof, but policies may not exclude required lens implants following cataract surgery;

(o) cosmetic surgery [~~including gastric procedures~~]; reversal, revision, repair, complications, or treatment related to a non-covered cosmetic surgery[-]; This exclusions does not apply to ~~except that cosmetic surgery shall not include~~ reconstructive surgery when the service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part; or ~~and~~ reconstructive surgery because of congenital disease or anomaly of a covered dependent child that has resulted in a functional defect;

(p) custodial care;

(q) dental care or treatment;[-]

(r) dietary products, except as required by Rule R590-194;

(s) educational and nutritional training, except as required by Rule R590-200;

(t) experimental and/or investigational services;

(u) felony, riot or insurrection, when the insured is a voluntary participant;

(v) foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain or symptomatic complaints of the feet, including orthotics. The exclusion of routine foot care does not apply to cutting or removal of corns, calluses, or nails when provided to a person who has a systemic disease, such as diabetes with peripheral neuropathy or circulatory insufficiency, of such severity that unskilled performance of the procedure would be hazardous;

(w) gastric or intestinal bypass services including lap banding, gastric stapling, and other similar procedures to facilitate weight loss; the reversal, or revision of such procedures; or services required for the treatment of complications from such procedures;

(x) gene therapy;

~~(y)~~ ~~(z)~~ genetic testing;

~~(z)~~ ~~(aa)~~ hearing aids, and examination for the prescription or fitting thereof;

~~(aa)~~ ~~(ab)~~ illegal activities, limited to losses related directly to the insured's voluntary participation;

~~(bb)~~ ~~(ba)~~ infertility services, except as required by Rule R590-76;

~~(cc)~~ ~~(bb)~~ interscholastic sports, with respect to short-term nonrenewable policies;

~~(dd)~~ ~~(ee)~~ mental or emotional disorders;

~~(ce)~~ ~~(dd)~~ motor vehicle no-fault law, except when the covered person is required by law to have no-fault coverage, the

exclusion applies to charges up to the minimum coverage required by law whether or not such coverage is in effect;

(ff)(ee) nuclear release;

(gg)(ff) preexisting conditions or diseases as allowed under Section 31A-22-605.1, except for coverage of congenital anomalies as required by Section 31A-22-610;

(hh)(gg) pregnancy, except for complications of pregnancy;

(ii)(hh) refractive eye surgery;

(jj)(ii) rehabilitation therapy services, such as physical, speech, and occupational, unless required to correct an impairment caused by a covered accident or illness;

(kk)(jj) respite care;

(ll)(kk) rest cures;

(mm)(ll) routine physical examinations;

(nn)(mm) service in the armed forces or units' auxiliary to

it;

(oo)(nn) services rendered by employees of hospitals, laboratories or other institutions;

(pp)(oo) services performed by a member of the covered person's immediate family;

(qq)(pp) services for which no charge is normally made in the absence of insurance;

(rr)(qq) sexual dysfunction;

(ss)(rr) shipping and handling, unless otherwise required by law;

(tt)(ss) suicide, sane or insane, attempted suicide, or intentionally self-inflicted injury;

(uu)(tt) telephone/electronic consultations;

(vv)(uu) territorial limitations outside the United States;

(ww)(vv) terrorism, including acts of terrorism;

(xx)(ww) transplants;

(yy)(xx) transportation;

(zz)(yy) treatment provided in a government hospital, except for hospital indemnity policies;

(aaa)(zz) war or act of war, whether declared or undeclared; or

(bbb)(aaa) others as may be approved by the commissioner.

(4) Waivers. All waivers issued must comply with 31A-30-107.5. Where waivers are required as a condition of issuance, renewal or reinstatement, signed acceptance by the insured is required.

(5) Commissioner authority. Policy provisions precluded in this section shall not be construed as a limitation on the authority of the commissioner to prohibit other policy provisions that in the opinion of the commissioner are unjust, unfair or unfairly discriminatory to the policyholder, beneficiary or a person insured under the policy.

KEY: health insurance

Date of Enactment or Last Substantive Amendment: ~~December 28, 2005~~ 2007

Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-2-202; 31A-22-605; 31A-22-623; 31A-22-626; 31A-23a-402; 31A-23a-412; 31A-26-301



**Insurance, Title and Escrow
Commission
R592-5
Title Insurance Product or Service
Approval for a Dual Licensed Title
Licensee**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE No.: 29994

FILED: 05/30/2007, 15:59

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to set forth the requirements for a dual licensed title licensee to obtain approval from the insurance commissioner or expedited approval from the Title and Escrow Commission to sell a title insurance product.

SUMMARY OF THE RULE OR CHANGE: This rule sets the requirements for a dual licensed title licensee to obtain approval from the insurance commissioner or expedited approval from the Title and Escrow Commission to sell a title insurance product.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 31A-2-404 and 31A-2-405

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** To date, there are about 78 licensees that have dual licenses that will need to file for approval to sell title insurance. If they file for approval, the department will take in \$1,950. At this time, the department and Commission do not believe this will create a substantive workload or fiscal impact on the department or the state budget.

❖ **LOCAL GOVERNMENTS:** This rule will have no fiscal impact on local government since it deals solely with the relationship between the department and its licensees.

❖ **OTHER PERSONS:** Licensees who decide to file for an approval to sell title insurance products will need to pay a \$25 filing fee. This will have very little, if any, impact on their customers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Licensees who decide to file for an approval to sell title insurance products will need to pay a \$25 filing fee. This will have very little, if any, impact on their customers.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have very little fiscal impact on title business in Utah. D. Kent Michie, Commissioner

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

INSURANCE
TITLE AND ESCROW COMMISSION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 07/09/2007 at 10:00 AM, State Office Building (behind the Capitol), Room 4112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2007

AUTHORIZED BY: Jilene Whitby, Information Specialist

R592. Insurance, Title and Escrow Commission.

R592-5. Title Insurance Product or Service Approval for a Dual Licensed Title Licensee.

R592-5-1. Authority.

This rule is promulgated pursuant to Sections 31A-2-404 and 31A-2-405, which direct the Title and Escrow Commission to make rules to administer the provisions related to title insurance.

R592-5-2. Purpose and Scope.

(1) The purpose of this rule is to set forth the requirements for a dual licensed title licensee to obtain:

(a) approval from the insurance commissioner pursuant to Subsection 31A-2-405(2); and

(b) expedited approval from the Title and Escrow Commission pursuant to Subsection 31A-2-405(3).

(2) This rule applies to all title licensees and applicants for a title insurance license or renewal of a title insurance license.

R592-5-3. Definitions.

For the purposes of this rule, the commissioner adopts the definitions in Sections 31A-1-301, 31A-2-402, and the following:

(1) "Need for expedited approval" means a significant hardship to the buyer or seller in the transaction.

(2) "Principal" means a person from whom a dual licensee has received compensation for submitting a transaction under one or more of his or her dual licenses. Examples include, but are not limited to, a mortgage company, a real estate broker, a title agency, a builder, or a developer.

(3) "Title insurance product" means the insuring, guaranteeing, or indemnifying of owners of real or personal property or the holders of liens or encumbrances on that property, or others

interested in the property against loss or damage suffered by reason of liens or encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens or encumbrances on the property.

(4) "Title insurance service" has the same meaning as the definition of "escrow" found in Subsection 31A-1-301(55).

R592-5-4. Filing Requirements, Processes and Procedures.

(1) Only a dual licensed title licensee can file a request for approval for the provision of a title insurance product or service.

(2) A complete filing consists of:

(a) a filing fee pursuant to Section 31A-3-103; and either
(b) a "Dual Licensee Request For Approval for the Provision of a Title Insurance Product or Service" form; or

(c) a "Dual Licensee Request For Expedited Approval for the Provision of a Title Insurance Product or Service" form.

(3) A filing to request approval of a "Dual Licensee Request for Approval for the Provision of a Title Insurance Product or Service" form must:

(a) be sent electronically to the commissioner via email to pcforms.uid@utah.gov; and

(b) include credit card information in the payment section of the form.

(4) An expedited filing to request approval of a "Dual Licensee Request for Expedited Approval for the Provision of a Title Insurance Product or Service" form must:

(a) include a completed Section 6, Reason for Requesting Expedited Approval, on the "Dual Licensee Request for Expedited Approval for the Provision of a Title Insurance Product or Service" form;

(b) be sent electronically to the Chair of the Title and Escrow Commission via email to pcforms.uid@utah.gov; and

(c) include credit card information in the payment section of the form.

(5) Approval or disapproval will be sent to the filer via return email.

R592-5-5. Severability.

If any section, term, or provision of this rule shall be adjudged invalid for any reason, such judgment shall not affect, impair or invalidate any other section, term, or provision of this rule and the remaining sections, terms, and provisions shall be and remain in full force.

R592-5-6. Penalties.

A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Sections 31A-2-308 and 31A-2-405.

R592-5-7. Enforcement Date.

The commissioner will begin enforcing this rule 15 days after the rule's effective date.

KEY: title dual licensees

Date of Enactment or Last Substantive Amendment: 2007
Authorizing, and Implemented or Interpreted Law: 31A-2-404

◆ ————— ◆

**Insurance, Title and Escrow
Commission
R592-6
Split Closings in Title Insurance**

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 29995
FILED: 05/31/2007, 06:46

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to set forth the requirements for conducting a split closing in title insurance.

SUMMARY OF THE RULE OR CHANGE: The rule establishes the requirements to conduct a split closing in title insurance.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-404

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This rule will create no impact on the state budget. There will be no change in the fees, filings, or personnel as a result of this rule.
- ❖ LOCAL GOVERNMENTS: This rule will have no impact on local governments since it deals solely with the relationship between the department and its licensees.
- ❖ OTHER PERSONS: Title producers will need to complete a Split Closing Instruction at the time a split closing is conducted. As a result, it will add an additional form to be completed at that time. The form makes sure all parties to the transaction are aware of their responsibilities in the split closing.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Title producers will need to complete a Split Closing Instruction at the time a split closing is conducted. As a result, it will add an additional form to be completed at that time. The form makes sure all parties to the transaction are aware of their responsibilities in the split closing.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule has no fiscal impact on consumers, producers or insurers. D. Kent Michie, Commissioner

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

INSURANCE
TITLE AND ESCROW COMMISSION
Room 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Jilene Whitby at the above address, by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at jwhitby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE: 07/09/2007 at 9:00 AM, State Office Building (behind the Capitol), Room 4112, Salt Lake City, UT.

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2007

AUTHORIZED BY: Jilene Whitby, Information Specialist

R592. Insurance, Title and Escrow Commission.

R592-6. Split Closings in Title Insurance.

R592-6-1. Authority.

This rule is promulgated pursuant to Section 31A-2-404, which directs the Title and Escrow Commission to make rules to administer the provisions related to title insurance.

R592-6-2. Purpose and Scope.

- (1) The purpose of this rule is to set forth the requirements for conducting a split closing in title insurance.
- (2) This rule applies to all title licensees and applicants for a title insurance license or renewal of a title insurance license.

R592-6-3. Definitions.

For the purposes of this rule, the commissioner adopts the definitions in Sections 31A-1-301, 31A-2-402, and the following:

- (1) "Courtesy closing" means:
 - (a) the signing of settlement documents for a real estate transaction; or
 - (b) the acceptance of monies for forwarding to the person conducting the escrow services to complete the real estate purchase.
- (2) "Split closing" means a real estate transaction closing conducted:
 - (a) by two different persons providing a title insurance product; or
 - (b) one person providing a title insurance product and one person conducting a courtesy closing as defined herein; and
 - (c) in two separate locations.
- (3) "Split Closing Instruction form" means the Split Closing Instruction form established by the Title and Escrow Commission and available at the department.
- (4) "Title insurance product" means the insuring, guaranteeing, or indemnifying of owners of real or personal property or the holders of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of liens or encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens or encumbrances on the property.
- (5) "Title insurance service" has the same meaning as the definition of "escrow" found in Subsection 31A-1-301.

R592-6-4. Split Closing Requirements, Processes and Procedures.

- (1) A split closing may be conducted if:
 - (a) requested by the buyer, seller, or lender or an agent for the buyer, seller, or lender; and
 - (b) a Split Closing Instruction form is completed and executed by the buyer, seller, and persons conducting the split closing not later than the date of closing.
- (2) Only persons issuing a title policy may:
 - (a) provide a title insurance service; and
 - (b) receive, deposit, and disburse monies.
- (3) A person conducting a courtesy closing:
 - (a) may have real estate settlement documents signed; and
 - (b) may accept monies for forwarding to the person conducting the escrow services to complete the real estate purchase:
 - (i) monies collected via wire transfer may be deposited and must be forwarded within one business day of receipt; or
 - (ii) monies collected via any other method except wire transfer may not be deposited and must be forwarded when the signed real estate documents are forwarded.

R592-6-5. Severability.

If any section, term, or provision of this rule shall be adjudged invalid for any reason, such judgment shall not affect, impair or invalidate any other section, term, or provision of this rule and the remaining sections, terms, and provisions shall be and remain in full force.

R592-6-6. Penalties.

A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Sections 31A-2-308 and 31A-2-405.

R592-6-7. Enforcement Date.

The commissioner will begin enforcing this rule calendar 15 days after the rule's effective date.

KEY: title split closings

Date of Enactment or Last Substantive Amendment: 2007

Authorizing, and Implemented or Interpreted Law: 31A-2-404



Labor Commission, Adjudication
R602-2-4
Attorney Fee

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29957

FILED: 05/17/2007, 14:23

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of the proposed rule change is to increase attorney fees in workers' compensation cases.

SUMMARY OF THE RULE OR CHANGE: The amendment increases the amount of attorney fees by 12.9% to reflect benefit increases over the last 3 years.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 34A-1-301 et seq.

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This amendment does not affect the state in its capacity as an employer nor does it increase the state's cost of administering the workers' compensation system, consequently no costs or savings to the state budget are anticipated.
- ❖ LOCAL GOVERNMENTS: This amendment does not affect local governments in their capacity as employers, consequently no costs or savings to local government budgets are anticipated.
- ❖ OTHER PERSONS: This increase is 12.9% above previous attorney fee limits, but is offset by a similar increase in weekly benefits that injured workers are now receiving.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The only compliance costs are the higher attorneys fees that injured workers may be required to pay. As noted, this increase is due to (and offset by) an increase in benefits paid to injured workers over the last two years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The attorney fees subject to this rule are paid by the injured worker, not the employer. The change should therefore have no fiscal impact on businesses. Sherrie Hayashi, Commissioner

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:

Richard M. Lajeunesse at the above address, by phone at 801-536-7928, by FAX at 801-530-6333, or by Internet E-mail at rlajeunesse@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/24/2007

AUTHORIZED BY: Sherrie Hayashi, Commissioner



R602. Labor Commission, Adjudication.**R602-2. Adjudication of Workers' Compensation and Occupational Disease Claims.****R602-2-4. Attorney Fees.**

A. Pursuant to Section 34A-1-309, the Commission adopts the following rule to regulate and fix reasonable fees for attorneys representing applicants in workers' compensation or occupational illness claims.

1. This rule applies to all fees awarded after ~~January 1, 2005~~ July 1, 2007.

2. Fees awarded prior to the effective date of this rule are determined according to the prior version of this rule in effect on the date of the award.

B. Upon written agreement, when an attorney's services are limited to consultation, document preparation, document review, or review of settlement proposals, the attorney may charge the applicant an hourly fee of not more than \$125 for time actually spent in providing such services, up to a maximum of four hours.

1. Commission approval is not required for attorneys fees charged under this subsection B. It is the applicant's responsibility to pay attorneys fees permitted by this subsection B.

2. In all other cases involving payment of applicants' attorneys fees which are not covered by this subsection B., the entire amount of such attorneys fees are subject to subsection C. or D. of this rule.

C. Except for legal services compensated under subsection B. of this rule, all legal services provided to applicants shall be compensated on a contingent fee basis.

1. For purposes of this subsection C., the following definitions and limitations apply:

a. The term "benefits" includes only death or disability compensation and interest accrued thereon.

b. Benefits are "generated" when paid as a result of legal services rendered after an Appointment of Counsel form is signed by the applicant. A copy of this form must be filed with the Commission by the applicant's attorney.

c. In no case shall an attorney collect fees calculated on more than the first 312 weeks of any and all combinations of workers' compensation benefits.

2. Fees and costs authorized by this subsection shall be deducted from the applicant's benefits and paid directly to the attorney on order of the Commission. A retainer in advance of a Commission approved fee is not allowed.

3. Attorney fees for benefits generated by the attorney's services shall be computed as follows:

a. For all legal services rendered through final Commission action, the fee shall be 20% of weekly benefits generated for the first ~~21,500~~ 24,275, plus 15% of the weekly benefits generated in excess of ~~21,500~~ 24,275 but not exceeding ~~43,000~~ 48,550, plus 10% of the weekly benefits generated in excess of ~~43,000~~ 48,550, to a maximum of ~~40,850~~ 12,250.

b. For legal services rendered in prosecuting or defending an appeal before the Utah Court of Appeals, an attorney's fee shall be awarded amounting to 25% of the benefits in dispute before the Court of Appeals. This amount shall be added to any attorney's fee awarded under subsection C.3.a. for benefits not in dispute before the Court of Appeals. The total amount of fees awarded under subsection C.3.a. and this subsection C.3.b. shall not exceed ~~15,850~~ 17,900;

c. For legal services rendered in prosecuting or defending an appeal before the Utah Supreme Court, an attorney's fee shall be awarded amounting to 30% of the benefits in dispute before the

Supreme Court. This amount shall be added to any attorney's fee awarded under subsection C.3.a. and subsection C.3.b. for benefits not in dispute before the Supreme Court. The total amount of fees awarded under subsection C.3.a, subsection C.3.b. and this subsection C.3.c shall not exceed ~~20,850~~ 23,550.

4. In addition to attorneys fees authorized by this subsection, a prevailing applicant's attorney shall be awarded reasonable and necessary costs actually incurred in the prosecution of the applicant's claim, as determined by the ALJ.

D. In "medical only" cases in which awards of attorneys' fees are authorized by Subsection 34A-1-309(4), the amount of such fees and costs shall be computed according to the provisions of subsection C.

KEY: workers' compensation, administrative procedures, hearings, settlements

Date of Enactment or Last Substantive Amendment: ~~May 5, 2006~~ 2007

Notice of Continuation: September 5, 2002

Authorizing, and Implemented or Interpreted Law: 34A-1-301 et seq.; 63-46b-1 et seq.



Labor Commission, Antidiscrimination and Labor, Labor **R610-1-3** Coverage

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 30008

FILED: 06/01/2007, 11:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to conform Utah's state minimum wage standards to recent increases in the federal minimum wage.

SUMMARY OF THE RULE OR CHANGE: This rule change raises the Utah minimum wage from \$5.15 to \$7.25 over a period of 2 years.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 34-23-101 et seq., 34-28-1 et seq., 34-40-101 et seq., and 63-46b-1 et seq.

ANTICIPATED COST OR SAVINGS TO:

❖ **THE STATE BUDGET:** In light of the expansive reach of the federal minimum wage, most, if not all, of the employers in Utah will be covered by its requirements. Therefore, the Labor Commission does not anticipate that increasing Utah's minimum wage will have any significant effect on the state budget since virtually all employers will be required to abide by the federal minimum wage increase. The Labor Commission anticipates that the amendment will have no fiscal impact on its minimum wage enforcement obligations.

❖ LOCAL GOVERNMENTS: In light of the expansive reach of the federal minimum wage, most, if not all, of the employers in Utah will be covered by its requirements. Therefore, the Labor Commission does not anticipate that increasing Utah's minimum wage will have any significant effect on local government since virtually all employers will be required to abide by the federal minimum wage increase.

❖ OTHER PERSONS: In light of the expansive reach of the federal minimum wage, most, if not all, of the employers in Utah will be covered by its requirements. Therefore, the Labor Commission does not anticipate that increasing Utah's minimum wage will have any significant effect on other persons since virtually all employers will be required to abide by the federal minimum wage increase.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Labor Commission does not anticipate that increasing Utah's minimum wage will result in any significant increases in compliance costs for affected persons since virtually all employers will be required to abide by the federal minimum wage increase. The Labor Commission anticipates that the amendment will have no fiscal impact on its minimum wage enforcement obligations.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In almost all circumstances, businesses are required to pay employees the minimum wage established by federal law. Consequently, the Utah minimum wage requirement has no additional impact and will not impose additional burden on businesses. Sherrie Hayashi, Commissioner

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

LABOR COMMISSION
 ANTIDISCRIMINATION AND LABOR, LABOR
 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 Morrison at the above address, by phone at 801-530-6921, by FAX at 801-530-7601, or by Internet E-mail at hmorrison@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/24/2007

AUTHORIZED BY: Sherrie Hayashi, Commissioner

**R610. Labor Commission, Antidiscrimination and Labor, Labor.
 R610-1. Minimum Wage, Clarify Tip Credit, and Enforcement.
 R610-1-3. Coverage.**

A. All employers employing workers in the state of Utah, except those exempted by Section 34-40-104, shall pay the established

minimum hourly wages of [~~\$4.75 for all hours employed effective October 1, 1996, and of \$5.15 for all hours employed effective September 1, 1997~~]\$5.15 an hour for all hours employed effective through July 23, 2007; \$5.85 an hour for all hours employed effective July 24, 2007; \$6.55 an hour for all hours employed effective July 24, 2008; and \$7.25 an hour for all hours employed effective July 24, 2009.

B. As per Sections 34-23-301 and 34-40-103, effective through July 23, 2007, a minor employee shall be paid at least \$4.25 per hour for the first 90 days of employment with an employer; thereafter, ~~he or she shall be paid at least the established minimum hourly wage~~ shall be paid the minimum wage established in subsection A of this rule.

C. Any employer claiming exemption under Subsection 34-40-104(1)(k), shall provide to the Division a statistical report of the average wage paid within 60 days of the end of the regular operating season. The Division may, upon notice, perform an on-site inspection to verify the report in accordance with Sections 34-40-201 and 34-40-203.

KEY: wages, minors^[a], labor, time

Date of Enactment or Last Substantive Amendment: [~~September 3, 1997~~]2007

Notice of Continuation: November 30, 2006

Authorizing, and Implemented or Interpreted Law: 34-23-101 et seq.; 34-28-1 et seq.; 34-40-101 et seq.; 63-46b-1 et seq.



**Transportation, Motor Carrier, Ports of
 Entry
 R912-9
 Pilot/Escort Requirements and
 Certification Program**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 30009

FILED: 06/01/2007, 12:01

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule amendment establishes the restriction of passengers and safety equipment requirements for police escort assistance in the movement of oversize loads throughout Utah.

SUMMARY OF THE RULE OR CHANGE: This amendment establishes changes addressing safety equipment, driver and insurance requirements, certification revocation/suspension, and convoy requirements.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 72-1-201 and 72-7-406

ANTICIPATED COST OR SAVINGS TO:

❖ THE STATE BUDGET: There are no costs or savings anticipated for any state agency as the updated rule requirements have an effect on pilot/escort companies only.

❖ LOCAL GOVERNMENTS: There are no costs or savings anticipated for any local government agency as the updated rule requirements have an effect on pilot/escort companies only.

❖ OTHER PERSONS: The change in the rule now requires that the pilot/escort operator or the operator's employer, has in full force and effect not less than \$750,000 combined single limit coverage for bodily injury and/or property damage. As such, those carriers that need to increase their coverage to meet this requirement will see associated costs as a result. Costs will vary depending on company's insurance agency.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The change in the rule now requires that the pilot/escort operator or the operator's employer, has in full force and effect not less than \$750,000 combined single limit coverage for bodily injury and/or property damage. As such, those carriers that need to increase their coverage to meet this requirement will see associated costs as a result. Costs will vary depending on company's insurance agency.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed changes are designed to make travel on Utah roads safer, not only for the traveling public, but for the pilot/escort companies and employees. The fiscal impact on business is minimal. John Njord, Executive Director

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

TRANSPORTATION
MOTOR CARRIER, PORTS OF ENTRY
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY UT 84119-5998, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Bruce Garner or Shirleen Hancock at the above address, by phone at 801-965-4168 or 801-965-4781, by FAX at 801-965-4338 or 801-965-4211, or by Internet E-mail at brucegarner@utah.gov or shirleenhancock@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/24/2007

AUTHORIZED BY: John R. Njord, Executive Director

R912. Transportation, Motor Carrier, Ports of Entry.

R912-9. Pilot/Escort Requirements and Certification Program.

R912-9-3. Definitions.

"Department" means the Utah Department of Transportation.

"Division" means the Motor Carrier Division.

"Authorized Personnel" means a Certified Pilot/Escort Driver as described in MUTCD 6C.02, and also classified as a "Flagger" as set forth in Chapter 6E of the MUTCD.

"MUTCD" means Manual on Uniform Traffic Control Devices.

"Special Event" means the movement of an over-dimensional load/vehicle as described in MUTCD 6C.02, and also the movement of an over-dimensional load/vehicle shall be classified as an "emergency road user occurrence" as described in MUTCD 6I.01.

R912-9-4. Pilot/Escort Driver Requirements.

Individuals who operate a pilot/escort vehicle must meet the following requirements:

- (1) Must be a minimum of 18 years of age.
- (2) Possess a valid drivers license for the state jurisdiction in which he/she resides.
- (3) Pilot/Escort driver's will be issued a certification card by an authorized Qualified Certification Program as outlined in R912-10, and shall have it in their possession at all times while in pilot/escort operations.
- (4) Initial certification will be valid for four years from the date of issue. One additional four-year certification may be obtained through a mail in or on-line recertification process provided by a Qualified Pilot/Escort Training Entity/Institution.
- (5) Pilot/escort drivers must provide a current (within 30 days) Motor Vehicle Record (MVR) certification to the Qualified Certification Program at the time of the course.
- (6) Current certification for pilot/escort operators will be honored through expiration date. Prior to expiration of pilot/escort certification it will be the responsibility of the operator to attend classroom instruction provided by an authorized Pilot/Escort Qualified Certification Program. A list of these providers can be obtained by calling (801) 965-4508.

(7) No passengers under 16 years of age are allowed in pilot/escort vehicles during movement of oversize loads.

(8) A Pilot/escort driver may not perform as a tillerman while performing pilot escort operations.

(9) A pilot /escort driver must meet the requirements of 49 CFR 391.11 if using a vehicle for escort operations in excess of 10,000 lbs GVWR.

R912-9-6. Suspensions and Revocations of Pilot/Escort Driver Certification.

Pilot/escort drivers may have their certification denied, suspended, or revoked by the Department if [convicted of]it is determined that a disqualifying offense has occurred within the previous 4 years.

(1) Drivers convicted of serious traffic violations such as excessive speed, reckless driving and driving maneuvers reserved for emergency vehicles, driving under the influence of alcohol or controlled substances may have their certification denied, suspended, or revoked by the Department.

(2) The Department may suspend for first offenses up to one year. Subsequent offenses may result in permanent revocation of driver certification.

R912-9-8. Pilot/Escort Vehicle Standards.

(1) Pilot/Escort vehicles may be either a passenger vehicle or a two-axle truck with a 95 inch minimum wheelbase and a maximum gross vehicle weight of 12,000 lbs and properly registered and licensed as required under Sections 41-1a-201 and 41-1a-401.

(2) Equipment shall not reduce visibility or mobility of pilot/escort vehicle while in operation.

(3) Trailers may not be towed at any time while in pilot/escort operations.

(4) Pilot/escort vehicles shall be equipped with a two-way radio capable of transmitting and receiving voice messages over a minimum distance of one-half mile. Radio communications must be compatible with accompanying pilot/escort vehicles, utility company vehicles, permitted vehicle operator and police escort, when necessary.

When operating with police escorts a CB radio is required.

(5) Pilot/Escort vehicles may not carry a load.

R912-9-9. Pilot/Escort Vehicle Signing Requirements.

(1) Sign requirements on pilot/escort vehicles are as follows:

(a) Pilot escort vehicles must display an "Oversize Load" sign, which must be mounted on the top of the pilot/escort vehicle.

(b) Signs must be a minimum of 5 feet wide by 10 inch high visible surface space, with a solid yellow background and 8 inch high by 1-inch wide black letters. Solid defined as: when being viewed from the front or rear at a 90-degree angle, no light can transmit through.

(c) The sign for the front/pilot escort vehicle shall be displayed so as to be clearly legible and readable by oncoming traffic at all times.

(d) The rear pilot/escort vehicle shall display its sign so as to be readable by traffic overtaking from the rear and clearly legible at all times.

R912-9-11. Pilot/Escort Vehicle Equipment Requirements.

(1) Pilot/Escort vehicles shall be equipped with the following safety items:

(a) Standard 18-inch or 24-inch red/white "STOP" and black/orange "SLOW" paddle signs. Construction zone flagging requires the 24-inch sign. For nighttime travel moves signs must be reflective in accordance with MUTCD standards

(b) Nine reflective triangles or 18-inch reflective orange traffic cones (not to replace items (c) or (d)).

(c) Eight red-burning flares, glow sticks or equivalent illumination device approved by the Department.

(d) Three orange, 18 inch high cones.

(e) Flashlight. With a minimum 1 1/2[²]-inch lens[e] diameter, with extra batteries or charger (emergency type shake or crank -- will not be allowed).

(f) 9[6²]-inch minimum length red or orange cone or traffic wand for use when directing traffic.

(g) Orange hardhat and Class 2 safety vest for personnel involved in pilot/escort operations. Class 3 safety vests are required for nighttime moves.

(h) A height-measuring pole made of a non-conductive, non-destructive, flexible or frangible material, only required when escorting a load exceeding 16 feet in height.

(i) Fire extinguisher.

(j) First aid kit must be clearly marked.

(k) One spare "oversize load" sign, 7 feet by 18 inches.

(l) Serviceable Spare tire, tire jack and lug wrench.

(m) Handheld two way simplex radio or other compatible form of communication for operations outside pilot/escort vehicles.

(2) Vehicles shall not have unauthorized equipment on the vehicle such as those generally reserved for law enforcement personnel.

R912-9-12. Police Escort Vehicle Equipment and Safety Requirements.

(1) Police escort vehicles shall be equipped with the following safety items:

(a) All officers must have a CB radio to communicate with the pilot and transport vehicles.

(b) Officers shall complete a Utah Law Enforcement Check List and Reporting Criteria Form.

(c) Officers shall verify that all pilot/escorts are in possession of current pilot/escort inspections, or they shall complete an inspection prior to load movement.

(d) Police vehicles must be clearly marked with emergency ~~red and blue~~ lighting visible 360 degrees;

(e) Officers shall be in uniform while conducting police escort moves.

R912-9-13. Insurance.

(1) ~~Drivers shall carry proof of current insurance as authorized under Section 31-A-22-301.~~ Driver shall possess a current certificate of insurance or endorsement which indicates that the operator, or the operator's employer, has in full force and effect not less than \$750,000 combined single limit coverage for bodily injury and/or property damage as a result of the operation of the escort vehicle, the escort vehicle operator, or both causing the bodily injury and/or property damage arising out of an act or omission by the pilot/escort vehicle operator of the escort duties required by the Rules. Such insurance or endorsement, as applicable, must be maintained at all times during the term of the pilot/escort certification.

(2) Pilot/escort vehicles shall have a minimum amount of \$750,000 liability. This is not a cumulative amount.

R912-9-15. Convoy Allowances For Permitted Vehicles.

~~The movement of more than one permitted vehicle in convoy is allowed provided the following requirements are met and authorization is granted by the Division:~~

~~(1) The distance between vehicles will not be less than 500 feet nor more than 700 feet.~~

~~(2) The number of special permitted vehicles in convoy will not exceed four.~~

~~(3) The distance between multiple convoys will be a minimum of one mile.~~

~~(4) Except as authorized by the Division, no load in the convoy will exceed 12 feet in width.~~

~~(5) Guidelines for convoys of long loads: The movement of more than one permitted vehicle is allowed provided prior authorization is obtained from the Motor Carrier Division with the following conditions:~~

~~(1) The number of permitted vehicles in the convoy shall not exceed two.~~

~~(2) Load may not exceed 12-inches or 150' overall length.~~

~~(3) Distance between vehicles shall not be less than 500 feet or more than 700 feet.~~

~~(4) Distance between convoys shall be a minimum of one mile.~~

~~(5) All convoys shall have a certified pilot/escort in the front and rear with proper signs.~~

~~(6) Police escorts or Utah Department of Transportation personnel may be required.~~

(7) Convoys must meet all lighting requirements set forth in 49 CFR 393.11 and in the lighting section for nighttime travel.

(8) Convoys are restricted to freeway and interstate systems.

(9) Nighttime travel is encouraged with Motor Carrier Division authorization.

(10) Approval for convoys and/or nighttime travel may be obtained by contacting the Central Permit Office at (801) 965-4508 or the nearest Port of Entry.

[TABLE

Overall Length	Convoy Limit	Pilot/Escort Vehicle
95 - 119 ft.	Four	Front and rear
120 - 140 ft.	Two	Front and rear
*Over 140 ft.		

*Must obtain authorization from the Division by calling (801) 965-4508

JR912-9-17. Permitted Vehicle Restrictions on Certain Highways.

Certified pilot/escort operators must refer to highway restrictions specified in R912-11 prior to all load movements.

R912-9-18. Flagging Requirements.

(1) During the movement of an over-dimensional load/vehicle, the pilot/escort driver, in the performance of the flagging duties required by these rules, may control and direct traffic to stop, slow or proceed in any situation(s) where it is deemed necessary to protect the motoring public from the hazards associated with the movement of the over-dimensional load/vehicle. The pilot/escort driver, acting as a flagger, may aid the over-dimensional load/vehicle in the safe movement along the highway designated on the over-dimensional load permit and shall:

(a) Assume the proper flagger position outside the pilot/escort vehicle, and as a minimum standard, have in use the necessary safety equipment as defined in 6E.1 of the MUTCD, and

(b) Use "STOP"/"SLOW" paddles or a 24-inch red/orange square flag to indicate emergency situations, and other equipment as described in 6E.1 of the MUTCD; and

(c) Comply with the flagging procedures and requirements as set forth in the MUTCD and the Utah Department of Transportation Flagger Training Handbook.

KEY: permitted vehicles, trucks, pilot/escort vehicles

Date of Enactment or Last Substantive Amendment: ~~June 1, 2006~~ 2007

Authorizing, and Implemented or Interpreted Law: 72-1-201; 72-7-406



**Workforce Services, Employment
 Development
 R986-200-231
 Assets That Are Not Counted (Exempt)
 for Eligibility Purposes**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE No.: 29974

FILED: 05/25/2007, 16:07

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to exempt motorized vehicles.

SUMMARY OF THE RULE OR CHANGE: The goal of the Family Employment Program (FEP) is to help clients become self-sufficient. Most FEP clients must be employed to remain eligible. Employment often requires a vehicle. Because FEP eligibility was linked to Medicaid eligibility, the Department had a \$8,000 equity value limit for vehicles. That amount is unrealistic. The Department has determined that very few families will be eligible under this change which were not eligible before the change. The change will save the Department the administrative burden of verifying the value of vehicles. Under this proposed change, all motor vehicles will be exempt.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 35A-3-302(5)(b), Section 35A-1-104, and Subsection 35A-1-104(4)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This is a federally-funded program and there will be no costs of savings to the state.
- ❖ LOCAL GOVERNMENTS: This is a federally-funded program and there will be no costs of savings to any local government.
- ❖ OTHER PERSONS: There are no costs or savings to any other persons as there are no fees associated with this program and it is federally-funded.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to affected persons as there are no fees associated with this program and it is federally-funded.

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. Kristen Cox, Executive Director

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 at the above address, 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 TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/24/2007

AUTHORIZED BY: Kristen Cox, Executive Director

**R986. Workforce Services, Employment Development.
R986-200. Family Employment Program.
R986-200-231. Assets That Are Not Counted (Exempt) for Eligibility Purposes.**

The following are not counted as an asset when determining eligibility for financial assistance:

- (1) the home in which the family lives, and its contents, unless any single item of personal property has a value over \$1,000, then only that item is counted toward the \$2,000 limit. If the family owns more than one home, only the primary residence is exempt and the equity value of the other home is counted;
- (2) the value of the lot on which the home stands is exempt if it does not exceed the average size of residential lots for the community in which it is located. The value of the property in excess of an average size lot is counted if marketable;
- (3) water rights attached to the home property are exempt;
- (4) ~~[a maximum of \$8,000 equity value of one vehicle. The entire equity value of one vehicle equipped to transport a disabled individual is exempt from the asset limit even if the vehicle has a value in excess of \$8,000]~~ motorized vehicles;
- (5) with the exception of real property, the value of income producing property necessary for employment;
- (6) the value of any reasonable assistance received for post-secondary education;
- (7) bona fide loans, including reverse equity loans;
- (8) per capita payments or any asset purchased with per capita payments made to tribal members by the Secretary of the Interior or the tribe;
- (9) maintenance items essential to day-to-day living;
- (10) life estates;
- (11) an irrevocable trust where neither the corpus nor income can be used for basic living expenses;
- (12) for refugees, as defined under R986-300-303(1), assets that remain in the refugee's country of origin are not counted;
- (13) one burial plot per member of the household. A burial plot is a burial space and any item related to repositories used for the remains of the deceased. This includes caskets, concrete vaults, urns, crypts, grave markers, etc. If the individual owns a grave site, the value of which includes opening and closing, the opening and closing is also exempt;
- (14) a burial/funeral fund up to a maximum of \$1,500 per member of the household;
 - (a) The value of any irrevocable burial trust is subtracted from the \$1,500 burial/funeral fund exemption. If the irrevocable burial trust is valued at \$1,500 or more, it reduces the burial/funeral fund exemption to zero.
 - (b) After deducting any irrevocable burial trust, if there is still a balance in the burial/funeral fund exemption amount, the remaining exemption is reduced by the cash value of any burial contract, funeral plan, or funds set aside for burial up to a maximum of \$1,500. Any amount over \$1,500 is considered an asset;

- (15) any interest which is accrued on an exempt burial contract, funeral plan, or funds set aside for burial is exempt as income or assets. If an individual removes the principal or interest and uses the money for a purpose other than the individual's burial expenses, the amount withdrawn is countable income; and
- (16) any other property exempt under federal law.

KEY: family employment program
Date of Enactment or Last Substantive Amendment: ~~May 1, 2007~~
Notice of Continuation: September 14, 2005
Authorizing, and Implemented or Interpreted Law: 35A-3-301 et seq.



**Workforce Services, Employment
Development
R986-400
General Assistance and Working
Toward Employment**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE No.: 29976
 FILED: 05/25/2007, 16:58

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to keep General Assistance (GA) the same when the vehicle rule for Family Employment Program (FEP) changes.

SUMMARY OF THE RULE OR CHANGE: Currently, a GA client can own one vehicle with an asset value of no more than \$8,000. The Department filed another proposed amendment which makes all vehicles exempt for the FEP. Since the GA rule currently states it follows FEP asset rules, this change needs to be made to keep GA the same while FEP changes. It is hoped all programs will exempt motorized vehicles but the Department is not ready to do that for GA yet. (DAR NOTE: The proposed amendment to the FEP rule is to Section R986-200-231 under DAR No. 29974 in this issue, June 15, 2007, of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsection 35A-1-104(4)

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** These changes are nonsubstantive in nature and the program is state-funded so there will be no costs or savings to the state.
- ❖ **LOCAL GOVERNMENTS:** These changes are nonsubstantive in nature and the program is state-funded so there will be no costs or savings to local government.
- ❖ **OTHER PERSONS:** These proposed changes reflect current rule and Department practice and are nonsubstantive in nature so there will be no costs or savings to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as these changes are nonsubstantive in nature and there are no costs for complying.

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. Kristen Cox, Executive Director

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 at the above address, 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 TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/24/2007

AUTHORIZED BY: Kristen Cox, Executive Director

R986. Workforce Services, Employment Development.

R986-400. General Assistance and Working Toward Employment.

R986-400-407. Income and Assets Limits and Amount of Assistance.

(1) The provisions of R986-200 are used for determining asset and income eligibility except;

(a) the income and assets of an SSI recipient living in the household are counted if that individual is legally responsible for the client;

(b) the total gross income of an alien's sponsor and the sponsor's spouse is counted as unearned income for the alien. If a person sponsors more than one alien, the total gross income of the sponsor and the sponsor's spouse is counted for each alien. Indigent aliens, as defined by 7 CFR 273.4(c)(3)(iv), are not exempt;

(c) one vehicle, with a maximum of \$8,000 equity value, is not counted. The entire equity value of one vehicle equipped to transport a disabled individual is exempt from the asset limit even if the vehicle has a value in excess of \$8,000. Beginning October 1, 2007, all motorized vehicles will be exempt.

(2) The financial assistance payment level is set by the Department and available for review at all Department local offices.

R986-400-455. Income and Assets Limits and Calculation of Assistance Payment.

(1) Income and asset determination and limits are the same as for FEP found in R986-200 except one vehicle with a maximum of \$8,000 equity value is not counted. The entire equity

value of one vehicle equipped to transport a disabled individual is exempt from the asset limit even if the vehicle has a value in excess of \$8,000. Beginning October 1, 2007, all motorized vehicles will be exempt.

(2) The amount of financial assistance available for payment to a client is based on the number of hours of participation. Payment is made twice per month and only after proof of participation. The base amount of assistance is equal to the GA financial assistance payment for the household size. The base GA payment is then prorated based on the number of hours of participation for each household member, up to a maximum of 40 hours of participation per household member per week. In no event can the financial assistance payment per month for a WTE household be more than for the same size household receiving financial assistance under GA. Payment of financial assistance cannot be made for any period during which the client does not participate.

(3) The base GA financial assistance payment level is determined by the State Legislature and available upon request.

(4) Each WTE household member will receive the sum of \$45 per month regardless of number of hours the client participates. This sum is intended to be used for participation expenses.

KEY: general assistance, working toward employment

Date of Enactment or Last Substantive Amendment: ~~November 1, 2006~~ 2007

Notice of Continuation: September 14, 2005

Authorizing, and Implemented or Interpreted Law: 35A-3-401; 35A-3-402



Workforce Services, Employment
Development

R986-500-504

AA Financial Assistance Eligibility and
Amount

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 29975

FILED: 05/25/2007, 16:50

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to reflect policy on counting assets.

SUMMARY OF THE RULE OR CHANGE: In a separate proposed amendment, the Department is making exempt all motorized vehicles for Family Employment Program (FEP) clients. Since the adoption assistance (AA) rules follow the FEP rules, the \$8,000 limit will still apply to AA. The Department intends to make the vehicle exemption the same for all programs but needs time to change policy, train staff, and evaluate the impact. (DAR NOTE: The proposed amendment to the FEP rule is to Section R986-200-231 under DAR No. 29974 in this issue, June 15, 2007, of the Bulletin.)

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsection 35A-1-104(4)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There are no anticipated costs of savings to the state budget as these proposed changes are nonsubstantive in nature and will not affect current funding levels.
- ❖ LOCAL GOVERNMENTS: These changes are nonsubstantive in nature and the program is state funded so there will be no costs or savings to local government.
- ❖ OTHER PERSONS: There are no costs or savings to any other persons as there are no fees associated with this program and this is a nonsubstantive change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program. This is a nonsubstantive change as the AA program is not changing, only FEP is changing.

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. Kristen Cox, Executive Director

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 at the above address, 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 TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/24/2007

AUTHORIZED BY: Kristen Cox, Executive Director

R986. Workforce Services, Employment Development.

R986-500. Adoption Assistance.

R986-500-504. AA Financial Assistance Eligibility and Amount.

(1) Eligibility and participation are determined by R986-200 except:

- (a) the employment plan must contain the requirement that the client enroll in high school or an alternative to high school, if the client does not have a high school diploma; ~~and~~
- (b) the child support enforcement provisions do not apply for the child being relinquished; and

(c) one vehicle with a maximum of \$8,000 equity value is not counted. The entire equity value of one vehicle equipped to transport a disabled individual is exempt from the asset limit even if the vehicle has a value in excess of \$8,000. Beginning October 1, 2007 all motorized vehicles will be exempt.

(2) If there are other eligible children living in the household assistance unit, the household will receive a monthly supplemental financial AA payment equal to the additional amount the household would have received had the parent(s) not relinquished the child.

(3) If there are no eligible children living in the household, financial AA will be provided equal to a household size of one even if both birth parents are living in the household.

KEY: adoption assistance

Date of Enactment or Last Substantive Amendment: ~~January 1, 2005~~ **2007**

Notice of Continuation: September 14, 2005

Authorizing, and Implemented or Interpreted Law: 35A-3-114

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**Workforce Services, Employment
Development
R986-700-709
Employment Support (ES) CC**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 29973

FILED: 05/25/2007, 15:54

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to ensure the rule reflects federal policy.

SUMMARY OF THE RULE OR CHANGE: The Department provides child care subsidy assistance to Vista volunteers even though those volunteers did not receive minimum wage. Assistance was provided because federal regulation made Vista volunteers eligible for a child care subsidy even though those volunteers did not otherwise meet the Department's eligibility criteria. The federal regulations have changed and Americorps*Vista volunteers now receive child care assistance from the federal government. With this change in federal regulation, Vista volunteers no longer meet the eligibility requirements for child care subsidy.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-1-104 and Subsections 35A-1-104(4) and 35A-3-310(3)

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: This is a federally-funded program so there are no costs or savings to the state budget.
- ❖ LOCAL GOVERNMENTS: This is a federally-funded program and there will be no costs of savings to any local government.

❖ OTHER PERSONS: There are no costs or savings to any other persons as there are no fees associated with this program and it is federally-funded.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs or savings to any affected persons as there are no fees associated with this program and it is federally-funded. Vista volunteers can now obtain child care assistance from the appropriate federal agency.

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. Kristen Cox, Executive Director

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 at the above address, 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 TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/24/2007

AUTHORIZED BY: Kristen Cox, Executive Director

R986. Workforce Services, Employment Development.

R986-700. Child Care Assistance.

R986-700-709. Employment Support (ES) CC.

(1) Parents who are not eligible for FEP CC or Diversion CC may be eligible for Employment Support (ES) CC. To be eligible, a parent must be employed or be employed while participating in educational or training activities. Work Study is not considered employment. A parent who attends school but is not employed at least 15 hours per week, is not eligible for ES CC. ES CC will only be provided to cover the hours a client needs child care for work or work and approved educational or training activities.

(2) If the household has only one parent, the parent must be employed at least an average of 15 hours per week.

(3) If the family has two parents, CC can be provided if:
(a) one parent is employed at least an average of 30 hours per week and the other parent is employed at least an average of 15 hours per week and their work schedules cannot be changed to provide care for the child(ren). CC will only be provided during the time both parents are in approved activities and neither is available to care for the children; or

(b) one parent is employed and the other parent cannot work, or is not capable of earning \$500 per month and cannot provide care for their own children because of a physical, emotional or mental incapacity. Any employment or educational or training activities invalidate a claim of incapacity. The incapacity must be expected to last 30 days or longer. The individual claiming incapacity must verify that incapacity in one of the following ways:

- (i) receipt of disability benefits from SSA;
- (ii) 100% disabled by VA; or
- (iii) by submitting a written statement from:

(A) a licensed medical doctor;
(B) a doctor of osteopathy;
(C) a licensed Mental Health Therapist as defined in UCA 58-60-102;

- (D) a licensed Advanced Practice Registered Nurse; or
- (E) a licensed Physician's Assistant.

(4) Employed or self-employed parent client(s) must make, either through wages or profit from self-employment, a rate of pay equal to or greater than minimum wage multiplied by the number of hours the parent is working. To be eligible for ES CC, a self employed parent must provide business records for the most recent three month time period to establish that the parent is likely to make at least minimum wage. If a parent has a barrier to other types of employment, exceptions can be made in extraordinary cases with the approval of the state program specialist.

(5) Americorps*Vista is not supported. ~~[even though the program does not meet the minimum wage requirements. The activities of Americorps*Vista volunteers are considered to be work and not training.]~~ Job Corps activities are considered to be training and a client in the Job Corps would also have to meet the work requirements to be eligible for ES CC.

(6) Applicants must verify identity but are not required to provide a Social Security Number (SSN) for household members. Benefits will not be denied or withheld if a customer chooses not to provide a SSN if all factors of eligibility are met. SSN's that are supplied will be verified. If an SSN is provided but is not valid, further verification will be requested to confirm identity.

KEY: child care

Date of Enactment or Last Substantive Amendment: ~~April 1, 2007~~

Notice of Continuation: September 14, 2005

Authorizing, and Implemented or Interpreted Law: 35A-3-310

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NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a PROPOSED RULE in the *Utah State Bulletin*, it may receive public 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.

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 (e.g., example). Deletions made to the rule appear struck out with brackets surrounding them (e.g., [~~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 will 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.

While a CHANGE IN PROPOSED RULE does not have a formal comment period, there is a 30-day waiting period during which interested parties may submit comments. The 30-day waiting period for CHANGES IN PROPOSED RULES published in this issue of the *Utah State Bulletin* ends July 16, 2007. At its option, the agency may hold public hearings.

From the end of the waiting period through October 13, 2007, the 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 this issue of the *Utah State Bulletin*. 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, the CHANGE IN PROPOSED RULE filing, along with its associated PROPOSED RULE, lapses and the agency must start the process over.

CHANGES IN PROPOSED RULES are governed by Section 63-46a-6; and Rule R15-2, and Sections R15-4-3, R15-4-5, R15-4-7, and R15-4-9.

The Changes in Proposed Rules Begin on the Following Page.

**Health, Health Care Financing,
Coverage and Reimbursement Policy**
R414-60B
Preferred Drug List

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 29808
Filed: 05/29/2007, 08:36

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is needed to authorize public notice requirements for Pharmacy and Therapeutics Committee meetings.

SUMMARY OF THE RULE OR CHANGE: This change replaces a statutory citation. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the May 1, 2007, 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 new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ **THE STATE BUDGET:** There is no budget impact because this change only replaces a statutory citation.
- ❖ **LOCAL GOVERNMENTS:** There is no budget impact because this change only replaces a statutory citation.
- ❖ **OTHER PERSONS:** There is no budget impact because this change only replaces a statutory citation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no budget impact because this change only replaces a statutory citation.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Public notice reference in proposed rule is clarified. No fiscal impact on business. David N. Sundwall, MD, Executive Director

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 at the above address, 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 TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

6/25/2007 at 3:30 PM, Cannon Health Building, 288 N 1460 W, Room 114, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2007

AUTHORIZED BY: David N. Sundwall, Executive Director

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-60B. Preferred Drug List.

.....

R414-60B-4. Service Coverage.

(1) Upon the recommendation of the Pharmacy and Therapeutics (P&T) Committee, DHCF pharmacy staff select the therapeutic classes and select the most clinically effective and cost effective drug or drugs within each class.

(2) The preferred drug or drugs are dispensed without prior authorization requirements.

(3) All other non-preferred drugs within each therapeutic class require prior authorization, unless the prescriber writes "medically necessary - ["]dispense as written" on the prescription and has justification in the patient's medical record substantiating the medical necessity of the non-preferred drug.

.....

R414-60B-6. P&T Committee Responsibilities and Functions.

(1) Under Section 26-18-106, the P&T Committee functions as a professional and technical advisory board to DHCF in the formulation of a PDL.

(2) P&T Committee recommendations must:

(a) represent the majority vote at meetings in which a majority of voting members are present; and

(b) include votes by at least one committee member from the group identified in Subsection R414-60B-5(3) and one member from the group identified in Subsection R414-60B-5(4)

(3) The P&T Committee manager shall schedule meetings, set agendas, provide meeting materials, keep minutes, record committee business, notify the Director when vacancies occur, provide meeting notices, and coordinate functions between the committee and DHCF.

(4) Notice for a P&T Committee meeting shall be given in accordance with Section ~~26-18-105~~52-4-202.

(5) The P&T Committee chairperson shall conduct all meetings. The P&T Committee manager shall conduct meetings if the chairperson is not present.

(6) P&T Committee meetings shall occur at least quarterly.

(7) P&T Committee meetings shall be open to the public except when meeting in executive session.

(8) The committee shall:

- (a) review drug classes and make recommendations to DHCF for PDL implementation;
- (b) review new drugs, new drug classes or both, to make recommendations to DHCF for PDL implementation;
- (c) review drugs or drug classes as DHCF assigns or requests;
- (d) review drugs within a therapeutic class and make a recommendation to DHCF for the preferred drug or drugs within the therapeutic class; and
- (e) review evidence based criteria and drug information.

.....

KEY: Medicaid

**Date of Enactment or Last Substantive Amendment: 2007
Authorizing, and Implemented or Interpreted Law: 26-18-3; 26-1-5**



Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-70
Medical Supplies, Durable Medical
Equipment, and Prosthetic Devices

NOTICE OF CHANGE IN PROPOSED RULE

DAR File No.: 29535
Filed: 05/31/2007, 13:54

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed rule is changed based on public comments that Medicaid received regarding its wheelchair policy. It is also changed to clarify Medicaid policy regarding mandatory and optional services, in relation to durable medical equipment (DME), medical supplies, and prosthetic devices.

SUMMARY OF THE RULE OR CHANGE: This change clarifies policy for providing wheelchairs for use in the home by correcting an error from the previous filing. It also clarifies policy for DME, medical supplies, and Medicaid coverage and noncoverage of prosthetic devices. It further removes language which states that medical necessity determines the provision of a prosthetic device because medical necessity does not govern the provision of optional services. (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the March 15, 2007, issue of the Utah State Bulletin, on page 21. 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 new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

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

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: There is no budget impact because the clarifications of Medicaid policy do not restrict ongoing services for Medicaid clients.
- ❖ LOCAL GOVERNMENTS: There is no budget impact because local governments do not provide medical supplies, durable medical equipment, or prosthetic devices for Medicaid clients.
- ❖ OTHER PERSONS: There is no budget impact because the clarifications of Medicaid policy do not restrict ongoing services for Medicaid clients.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no budget impact because the clarifications of Medicaid policy do not restrict ongoing services for Medicaid clients.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact on business is anticipated as a result of the changes in this rule. No change from current practice is intended by this rule. David N. Sundwall, MD, Executive Director

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 at the above address, 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 TO THE ADDRESS ABOVE NO LATER THAN 5:00 PM on 07/16/2007.

THIS RULE MAY BECOME EFFECTIVE ON: 07/23/2007

AUTHORIZED BY: David N. Sundwall, Executive Director



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

R414-70. Medical Supplies, Durable Medical Equipment, and Prosthetic Devices.

R414-70-1. Introduction and Authority.

(1) Medically necessary medical supplies, including disposable medical supplies, durable medical equipment, and prosthetic devices are available to recipients who are living at home.

(2) This rule is authorized by Sections 26-18-3 and 26-1-5, Utah Code Annotated.

(3) The authority for this program is found in 42 CFR 440.120(c), 440.130(d), 441.15(a)(3), and 440.70(b)(3).

(4) Durable Medical Equipment (DME) and medical supplies are mandatory services. Prosthetic devices are optional services as referenced in 42 CFR 440.225.

.....

R414-70-6. Durable Medical Equipment.

(1) Medically necessary durable medical equipment, such as manual and power wheelchairs, commodes, bathing aids, oxygen concentrators, hospital beds, ventilators, CPAP machines, BiPAP machines, and ambulatory aids, such as canes and crutches, are benefits for recipients residing at home. All special adaptations and design of DME is limited to utilization in the home.

(2) Medicaid covers repairs to DME.

(3) The Department will pay for a particular DME item once every five years from the original purchase date. Additional replacement DME may be provided if the recipient demonstrates medical necessity to the Department.

(4) The Department may purchase or rent DME at its option.

(5) Wheelchairs which are suitable for use in the home are a benefit. ~~[if the recipient's condition is of such severity that without the use of a wheelchair, the recipient would be confined to bed or chair at least 19 hours or more each day without functional ambulation.]~~

(a) Medicaid will pay for one wheelchair for a recipient.

(b) If Medicaid has supplied a wheelchair, Medicaid will not repair or service an alternate, patient-owned wheelchair.

(c) A standard wheelchair with attachments, components or accessories; a customized, manual wheelchair; or a motorized wheelchair may be provided if the recipient demonstrates medical necessity to the Department and the wheel chair is designed for use in the home. Special attachments, accessories and modifications for use outside the home are not covered.

(d) The recipient or primary care giver must be capable of routine wheelchair care and management.

(e) Wheelchair repairs

(i) Medicaid covers repairs for only one wheelchair. The provider must obtain authorization from the Department before making any repairs.

(ii) Repairs do not include routine maintenance, such as changing tires, inspecting the chair, changing batteries, grease, and oil.

(iii) Repairs to a rental chair are not a benefit.

(iv) Re-upholstery is a benefit if the warranty has expired, the original upholstery is beyond repair, not the result of abuse and neglect, and is medically necessary.

(f) A recipient who requires a wheelchair for employment, vocational development, or educational purposes must seek this benefit through the appropriate funded state agency. Medicaid coverage is limited to use in the home and not for employment, educational, or recreational needs.

R414-70-7. Prosthetic Devices and Appliances.

(1) ~~[Prosthetic devices,]~~ Medicaid covers prosthetic devices that include hearing aids, special orthopedic appliances, prosthetic limbs, prosthetic eyes, braces, and orthoses ~~[are covered]. Medicaid does not cover prosthetic devices that include special shoes, cochlear implants, augmentative speech devices, and wigs or hair replacement after chemotherapy. [DME devices including wheelchairs and standers are not prosthetic devices under this rule.]~~

(2) Repairs and parts for artificial limbs are a benefit if medically necessary.

(3) Attachments and modifications to artificial limbs are a benefit.

(4) Duplicative appliances such as an artificial leg plus a wheelchair are not a benefit unless there is documentation that it is medically necessary to have both devices.

(5) The Department will pay for a particular item once every five years from the original purchase date. A replacement prosthetic device may be provided more often ~~[but only if the recipient demonstrates medical necessity to the Department].~~

.....

R414-70-9. Non Covered Items.

The following are not benefits:

(1) Items used primarily for hygiene, education, exercise, convenience, cosmetic purposes, social interaction, or comfort of the recipient.

(2) Modifications of DME or supplies for reasons of convenience, cosmetics, or comfort.

(3) DME for use outside the home, including wheelchair, wheelchair attachments, accessories and modifications for use outside the home.

(4) Equipment permanently attached or mounted to a building or a vehicle such as ramps, lifts, and bathroom rails.

(5) Routine maintenance such as cleaning, greasing and oiling of purchased equipment.

(6) Repairs to DME or prosthetic devices if:

(a) the recipient does not own the device or use the device in his home;

(b) the repair or part is for equipment which is not a benefit;

(c) the repair is covered by a warranty; or

(d) the damage is the result of abuse or neglect.

(7) First aid supplies not referenced in Section 5(2)(c).

(8) Non-medical supplies, devices, or products that are not primarily and customarily used to serve a medical purpose or generally are not useful to an individual in the absence of an illness or injury

(9) Lifts in furniture to aid a patient to a standing position;

(10) Specialized or non-standard tires or wheels on wheelchairs are not a benefit unless medically necessary for use in the patient's home.

(11) Cervical pillows;

(12) Shoes not attached to a brace;

(13) Shoe repair;

(14) Non-prescription braces and supports;

(15) Reflux boards;

- (16) Items purchased by the patient through mail order;
- (17) A second oxygen system; [~~and~~]
- (18) Glucose monitors;
- (19) Cochlear implants;
- (20) Augmentative speech devices; and
- (21) Wigs or hair replacement following chemotherapy.

Utah Medicaid State Plan and incorporated by reference in R414-1-5.

KEY: Medicaid
Date of Enactment or Last Substantive Amendment: 2007
Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3

R414-70-10. Reimbursement.

Medical supplies, DME and prosthetic devices are reimbursed using the established fee schedule as established in the



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 the 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 63-46a-7(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. A row of dots in the text (. . . .) indicates that unaffected text was removed to conserve space.

A 120-DAY RULE is effective at the moment the Division of Administrative Rules receives the filing, 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 120-DAY RULES are effective immediately, the law does not require a public comment period. However, when an agency files a 120-DAY RULE, it usually files a PROPOSED RULE at the same time, to make the requirements permanent. Comment may be made on the proposed rule. Emergency or 120-DAY RULES are governed by Section 63-46a-7; and Section R15-4-8.

Human Services, Child and Family Services **R512-300** Out-of-Home Services

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 30010
FILED: 06/01/2007, 14:26

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is to provide safe and proper care for children in Out-of-Home Care.

SUMMARY OF THE RULE OR CHANGE: The change details the maximum number of children who remain in Out-of-Home Care for over 24 months and the steps that will be taken to ensure that number remains static as required by 42 U.S.C. 671.

STATE STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-4a-105 and 42 U.S.C. 671

ANTICIPATED COST OR SAVINGS TO:

- ❖ THE STATE BUDGET: The Federal Revenue Manager for the Division reviewed possible anticipated costs or savings to the state budget due to changes to this rule. It was determined that there will not be an increase in costs or savings to the state budget. Services will be provided within the current budget.
- ❖ LOCAL GOVERNMENTS: After careful review of the possible impact of costs or savings on local government by the Federal Revenue Manager for the Division, it was determined that

there will be no increases costs or savings to local government.

❖ OTHER PERSONS: The Federal Revenue Manager for the Division reviewed possible anticipated costs or savings to other persons due to this rule change. It was determined that the families affected by this rule change will not see an increase in costs or savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Federal Revenue Manager for the Division reviewed possible anticipated costs or savings to affected persons due to this rule change. It was determined that the families affected by this rule change will not see an increase in costs or savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no impact on businesses. Lisa-Michele Church, Executive Director

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

The Division of Child and Family Services is required by 42 U.S.C. 671 to create an administrative rule that addresses the number of children in Out-of-Home Care for over 24 months. This emergency rule is required in order to immediately bring the Division into compliance with this law while the Division puts a rule amendment through the regular rulemaking process.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
Room 225
120 N 200 W
SALT LAKE CITY UT 84103-1500, or

at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Carol Miller at the above address, by phone at 801-538-4451, by FAX at 801-538-3993, or by Internet E-mail at CAROLMILLER@utah.gov

THIS RULE IS EFFECTIVE ON: 06/01/2007

AUTHORIZED BY: Duane Betournay, Director

R512. Human Services, Child and Family Services.

R512-300. ~~Out-of-Home~~ Out-of-Home Services.

R512-300-1. Purpose and Authority.

A. The purposes of ~~Out-of-Home~~ Out-of-Home Services are:

1. To provide a temporary, safe living arrangement for a child placed in the custody of the Division of Child and Family Services (Child and Family Services) or the Department of Human Services by court order or through voluntary placement by the child's parent or legal guardian.

2. To provide services to protect the child and facilitate the safe return of the child home or to another permanent living arrangement.

3. To provide safe and proper care and address the child's needs while in ~~agency~~ state custody.

B. Sections 62A-4a-105 and 62A-4a-106 authorize Child and Family Services~~(the Division)~~ to provide ~~e~~Out-of-~~h~~Home ~~s~~Services and 42 USC Section 472 authorizes federal foster care. 42 USC Sections 471 and 472 (2006)~~(2000)~~, and 45 CFR Parts 1355 and 1356 (2000) are incorporated by reference.

R512-300-2. Definitions.

The following terms are defined for the purposes of this rule:

A. Custody by court order means temporary custody or custody authorized by Title 78, Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings or Section 78-3a-118. It does not include protective custody.

B. DivisionChild and Family Services means the Division of Child and Family Services.

C. Department means the Department of Human Services.

D. Least restrictive means most family-like.

E. Placement means living arrangement.

R512-300-3. Scope of Services.

A. Qualification for Services. ~~Out-of-home~~ Out-of-Home ~~s~~Services are provided to:

1. A child placed in the custody of ~~the Division~~ Child and Family Services by court order and the child's parent or guardian, if the court orders reunification;

2. A child placed in the custody of the Department by court order for whom ~~the Division~~ Child and Family Services is given primary responsibility for case management or for payment for the child's placement, and the child's parent or guardian if reunification is ordered by the court;

3. A child voluntarily placed into the custody of ~~the Division~~ Child and Family Services and the child's parent or guardian.

B. Service Description. ~~Out-of-home~~ Out-of-Home ~~s~~Services consist of:

1. Protection, placement, supervision, and care of the child;

2. Services to a parent or guardian of a child receiving ~~out of home~~ Out-of-Home ~~s~~Services when a reunification goal is ordered by the court or to facilitate return of a child home upon completion of a voluntary placement.

3. Services to facilitate another permanent living arrangement for a child receiving ~~out-of-home~~ Out-of-Home ~~s~~Services if a court determines that reunification with a parent or guardian is not required or in the child's best interests.

C. Availability. ~~Out-of-home~~ Out-of-Home ~~s~~Services are available in all geographic regions of the state.

D. Duration of Services. ~~Out-of-home~~ Out-of-Home ~~s~~Services continue until a child's custody is terminated by a court or when a voluntary placement agreement expires or is terminated.

R512-300-4. ~~Division~~ Child and Family Services Responsibility to a Child Receiving ~~Out-of-Home~~ Out-of-Home Services.

A. Child and Family Team.

1. With the family's assistance, a child and family team shall be established for each child receiving ~~out-of-home~~ Out-of-Home ~~s~~Services.

2. At a minimum, the child and family team shall assist with assessment, child and family plan development, and selection of permanency goals; oversee progress towards completion of the plan; provide input into adaptations to the plan; and recommend placement type or level.

B. Assessment.

1. A written assessment is completed for each child placed in custody of ~~the Division~~ Child and Family Services through court order or voluntary placement and for the child's family.

2. The written assessment evaluates the child and family's strengths and underlying needs.

3. The type of assessment is determined by the unique needs of the child and family, such as cultural considerations, special medical or mental health needs, and permanency goals.

4. Assessment is ongoing.

C. Child and Family Plan.

1. Based upon an assessment, each child and family receiving ~~out-of-home~~ Out-of-Home ~~s~~Services shall have a written child and family plan in accordance with Section 62A-4a-205.

2. The child's parent or guardian and other members of the child and family team shall assist in creating the plan based on the assessment of the child and family's strengths and needs.

3. In addition to requirements specified in Section 62A-4a-205, the child and family plan shall include the following to facilitate permanency:

a. The current strengths of the child and family as well as the underlying needs to be addressed.

b. A description of the type of placement appropriate for the child's safety, special needs and best interests, in the least restrictive setting available and, when the goal is reunification, in reasonable proximity to the parent. If the child with a goal of reunification has not been placed in reasonable proximity to the parent, the plan shall describe reasons why the placement is in the best interests of the child.

c. Goals and objectives for assuring the child receives safe and proper care including the provision of medical, dental, mental health, educational, or other specialized services and resources.

d. If the child is age 14~~6~~ or older, a written description of the programs and services to help the child prepare for the transition from foster care to independent living in accordance with Rule R512-305.

e. A visitation plan for the child, parents, and siblings, unless prohibited by court order.

f. Steps for monitoring the placement and plan for worker visitation and supports to the ~~[out-of-home]~~ Out-of-Home caregiver for a child placed in Utah or out of state.

g. If the goal is adoption or placement in another permanent home, steps to finalize the placement, including child-specific recruitment efforts.

4. The child and family plan is modified when indicated by changing needs, circumstances, progress towards achievement of service goals, or the wishes of the child, family, or child and family team members.

5. A copy of the completed child and family plan shall be provided to the parent or guardian, ~~[out-of-home]~~ Out-of-Home caregiver, juvenile court, assistant attorney general, guardian ad litem, legal counsel for the parent, and the child, if the child is able to understand the plan.

D. Permanency Goals.

1. A child in ~~[out-of-home]~~ Out-of-Home care shall have a primary permanency goal and a concurrent permanency goal identified by the child and family team.

2. Permanency goals include:

- a. Reunification.
- b. Adoption.
- c. Guardianship (Relative).
- d. Guardianship (Non-Relative).
- e. Individualized Permanency.

3. For a child whose custody is court ordered, both primary and concurrent permanency goals shall be submitted to the court for approval.

4. The primary permanency goal shall be reunification unless the court has ordered that no reunification efforts be offered.

5. A determination that ~~[independent living]~~ Transition to Adult Living services are appropriate for a child does not preclude adoption as a primary permanency goal. Enrollment in ~~[independent living]~~ Transition to Adult Living services can occur concurrently with continued efforts to locate and achieve placement of an older child with an adoptive family.

E. Placement.

1. A child receiving ~~[out-of-home]~~ Out-of-Home ~~[s]~~ Services shall receive safe and proper care in an appropriate placement according to placement selection criteria specified in Rule R512-302.

2. The type of placement, either initial or change in placement, is determined within the context of the child and family team utilizing a need level screening tool designated by ~~[the Division]~~ Child and Family Services.

3. Placement decisions are based upon the child's needs, strengths, and best interests.

4. The following factors are considered in determining placement:

- a. Age, special needs, and circumstances of the child;
- b. Least restrictive placement consistent with the child's needs;
- c. Placement of siblings together;
- d. Proximity to the child's home and school;
- e. Sensitivity to cultural heritage and needs of a minority child;
- f. Potential for adoption.

5. A child's placement shall not be denied or delayed on the basis of race, color, or national origin of the ~~[out-of-home]~~ Out-of-Home caregiver or the child involved.

6. Placement of an Indian child shall be in compliance with the Indian Child Welfare Act, 25 USC Section 1915, which is incorporated by reference.

7. When a young woman in ~~[Division]~~ state custody is ~~the~~ mother of a child~~[-]~~ and desires and is able to parent the child with the support of the ~~[out-of-home]~~ Out-of-Home caregiver, the child shall remain in the ~~[out-of-home]~~ Out-of-Home placement with the mother. ~~[The Division]~~ Child and Family Services shall only petition for custody of the young woman's child if there are concerns of abuse, neglect, or dependency in accordance with Title 78, Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings.

8. The child and family team may recommend a ~~[a independent living]~~ Transition to Adult Living placement for a child age 14~~[6]~~ years or older in accordance with Rule R512-305 when in the child's best interests.

G. Federal Benefits.

1. ~~[The Division]~~ Child and Family Services may apply for eligibility for Title IV-E foster care and Medicaid benefits for a child receiving ~~[out-of-home]~~ Out-of-Home ~~[s]~~ Services. Information provided by the parent or guardian, as specified in Rule R512-301, shall be utilized in determining eligibility.

2. ~~[The Division]~~ Child and Family Services may apply to be protective payee for a child in state custody who has a source of unearned income, such as Supplemental Security Income or Social Security ~~[i]~~ Income. A ~~[trust]~~ representative payee account shall be maintained by ~~[the Division]~~ Child and Family Services for management of the child's income. The unearned income shall be utilized only towards costs of the child's care and personal needs in accordance with requirements of the regulating agency.

H. Visitation with Familial Connections.

1. The child has a right to purposeful and frequent visitation with a parent or guardian and siblings, unless the court orders otherwise.

2. Visitation is not a privilege to be earned or denied based on behavior of the child or the parent or guardian.

3. Visitation may be supplemented with telephone calls and written correspondence.

4. The child also has a right to communicate with extended family members, the child's attorney, physician, clergy, and others who are important to the child.

5. Intensive efforts shall be made to engage a parent or guardian in continuing contacts with a child, when not prohibited by court order.

6. If clinically contraindicated for the child's safety or best interests, ~~[the Division]~~ Child and Family Services may petition the court to deny or limit visitation with specific individuals.

7. Visitation and other forms of communication with familial connections shall only be denied when ordered by the court.

8. A parent whose parental rights have been terminated does not have a right to visitation.

I. ~~[Out-of-Home]~~ Out-of-Home Worker Visitation with the Child.

1. The ~~[out-of-home]~~ Out-of-Home worker shall visit with the child to ensure that the child is safe and is appropriately cared for while in an ~~[out-of-home]~~ Out-of-Home placement. If the child is placed out of the area or out of state, arrangements may be made for another worker to perform some of the visits. The child and family team shall develop a specific plan for the worker's contacts with the child based upon the needs of the child.

J. Case Reviews.

1. Pursuant to Sections 78-3a-311.5, 73-3a-312, and 78-31-313, periodic reviews of court ordered ~~[out of home]~~Out-of-Home [s]Services shall be held no less frequently than once every six months.

2. ~~[The Division]~~Child and Family Services shall seek to ensure that each child receiving ~~[out of home]~~Out-of-Home [s]Services has timely and effective case reviews and that the case review process:

a. Expedites permanency for a child receiving ~~[out of home]~~Out-of-Home [s]Services,

b. Assures that the permanency goals, child and family plan, and services are appropriate,

c. Promotes accountability of the parties involved in the child and family planning process, and

d. Monitors the care for a child receiving ~~[out of home]~~Out-of-Home [s]Services.

K. Maximum Number of Children in Out-of-Home Care.

1. At no time during the fiscal year will the proportion of children in Out-of-Home care for over 24 months exceed one-third of the total number of children currently in Out-of-Home care.

2. On an annual basis, the statewide quality improvement committee will review data on the proportion of children in foster care over 24 months and the steps taken by Child and Family Services to ensure that proportion is not exceeded. As appropriate, recommendations for improvement will be made from the committee to Child and Family Services administration.

KEY: social services, child welfare, domestic violence, child abuse
Date of Enactment or Last Substantive Amendment: June 1, 2006
Authorizing, and Implemented or Interpreted Law: 62A-4a-105, 42 U.S.C. 671



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 responsible agency is required to review the rule. This review is designed to remove obsolete rules from the *Utah Administrative Code*.

Upon reviewing a rule, an agency may: repeal the rule by filing a PROPOSED RULE; continue the rule as it is by filing a NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (NOTICE); or amend the rule by filing a PROPOSED RULE and by filing a NOTICE. By filing a NOTICE, the agency indicates that the rule is still necessary.

NOTICES are not followed by the rule text. The rule text that is being continued may be found in the most recent edition of the *Utah Administrative Code*. The rule text may also be inspected at the agency or the Division of Administrative Rules. NOTICES are effective when filed. NOTICES are governed by Section 63-46a-9.

Administrative Services, Facilities Construction and Management **R23-1** Procurement of Construction

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 29965
FILED: 05/24/2007, 09:23

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 enacted under the authority of Subsections 63A-5-103(1)(e) and 63-56-208(2). Rule R23-1 provides the standards and procedures for the procurement of construction by the Division of Facilities Construction and Management (DFCM).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: DFCM and the Utah Building Board have not received written comments either in support or opposition to Rule R23-1.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R23-1 is necessary to comply with the provisions of Section 63-56-208, which requires the State Building Board to make rules governing the procurement of construction. Therefore, this rule should be continued. While this rule is being continued, DFCM intends on also presenting amendments to the rule at a future State Building Board meeting for consideration and publication.

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

ADMINISTRATIVE SERVICES
FACILITIES CONSTRUCTION AND MANAGEMENT
Room 4110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY UT 84114-1201, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Debbie Merrill, Alan Bachman, or Priscilla Anderson at the above address, by phone at 801-538-3240, 801-538-3105, or 801-538-9595, by FAX at 801-538-3313, 801-538-3313, or 801-538-3378, or by Internet E-mail at debramerrill@utah.gov, abachman@utah.gov, or phanderson@utah.gov

AUTHORIZED BY: Keith Stepan, Director

EFFECTIVE: 05/24/2007



Administrative Services, Facilities Construction and Management **R23-19** Facility Use Rules

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 29964
FILED: 05/24/2007, 09:07

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 enacted under the authority of Subsection 63A-5-103(1)(e) and Section 63A-5-204. Rule R23-19 provides the standards and procedures for the use of state facilities and grounds.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division of Facilities Construction and Management (DFCM) and the Utah Building Board have not received written comments either in support or opposition to Rule R23-19.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R23-19 is necessary to provide standards for the use of state facilities and grounds. Therefore, this rule should be continued. While this rule is being continued, DFCM filed a Notice of Proposed Rule, DAR No. 29812, to repeal and reenact Rule R23-19 with amendments to provide the methods, forms, and requirements in regulating the use of state facilities and grounds. This filing was published in the May 1, 2007, issue of the Utah State Bulletin.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ADMINISTRATIVE SERVICES
 FACILITIES CONSTRUCTION AND MANAGEMENT
 Room 4110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY UT 84114-1201, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Debbie Merrill, Alan Bachman, or Priscilla Anderson at the above address, by phone at 801-538-3240, 801-538-3105, or 801-538-9595, by FAX at 801-538-3313, 801-538-3313, or 801-538-3378, or by Internet E-mail at debramerrill@utah.gov, abachman@utah.gov, or phanderson@utah.gov

AUTHORIZED BY: Keith Stepan, Director

EFFECTIVE: 05/24/2007

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**Capitol Preservation Board (State),
 Administration**
R131-3
Use of Magnetometers on Capitol Hill

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**
 DAR FILE NO.: 29952
 FILED: 05/16/2007, 12:43

**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 63C-9-301(3)(a), 63C-9-301(4), and 63C-9-402(15) provide for and authorize the State Capitol Preservation Board to adopt rules governing the Capitol Hill complex, Capitol Hill facilities, and

Capitol Hill grounds. Section 63C-9-401 and Subsection 63C-9-402(15) authorize the Executive Director to assist the State Capitol Preservation Board in performing their duties.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no written comments received during and since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary to carry out the duties required by Section 63C-9-301 to provide for the management of security on the Capitol Hill complex, Capitol Hill facilities, and Capitol Hill grounds. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 CAPITOL PRESERVATION BOARD (STATE)
 ADMINISTRATION
 Room E110 EAST BUILDING
 420 N STATE ST
 SALT LAKE CITY UT 84114-2110, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Sarah Whitney or David H. Hart at the above address, by phone at 801-538-3074 or 801-538-3074, by FAX at 801-538-3221 or 801-538-3221, or by Internet E-mail at swhitney@utah.gov or dhart@utah.gov

AUTHORIZED BY: David H. Hart, AIA, Executive Director

EFFECTIVE: 05/16/2007

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Financial Institutions, Banks
R333-11
**Ownership by State-Chartered Banks of
 Real Estate Other Than Property Used
 for Bank Business or Held as an
 Investment**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**
 DAR FILE NO.: 29972
 FILED: 05/25/2007, 13:37

**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: General rulemaking authority is granted at Section 7-1-301. Express rulemaking authority as to bank ownership of real estate granted at Section 7-3-18.

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 supporting or opposing written comments have been received since the last notice of continuation.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section 7-3-18 requires that the department promulgate rules prescribing the purposes and manner that banks may hold real estate. Therefore, this rule should be continued.

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

FINANCIAL INSTITUTIONS
BANKS
Room 201
324 S STATE ST
SALT LAKE CITY UT 84111-2393, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Paul Allred at the above address, by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at PALLRED@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 05/25/2007

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**Health, Epidemiology and Laboratory
Services; HIV/AIDS, Tuberculosis
Control/Refugee Health**

R388-803

HIV Test Reporting

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 29979
FILED: 05/29/2007, 14:59

**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 establishes requirements for: reporting, screening, diagnostic, and treatment test results to Human Immunodeficiency Virus (HIV) and Acquired Immunodeficiency Syndrome (AIDS) and partner identification, and notification as required by Sections 26-6-3 and 26-6-3.5 of the Utah Communicable Disease Control 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: There have not been any written comments received during and since the last five-year review of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is authorized and mandated by state law, and implements or interprets Sections 26-6-3 and 26-6-3.5 of the Utah Communicable Disease Control Act. The rule is worded in such a way as to give laboratories, providers, or other reporting sources the option of reporting to either the local health department or the Utah Department of Health. Clear mechanisms are in place stating that local health departments must report morbidity and positive HIV test results to the Utah Department of Health. Therefore, this rule should be continued.

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

HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES;
HIV/AIDS, TUBERCULOSIS CONTROL/
REFUGEE HEALTH
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:

Jennifer Brown at the above address, by phone at 801-538-6131, by FAX at 801-538-9913, or by Internet E-mail at jenniferbrown@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 05/29/2007

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**Health, Epidemiology and Laboratory
Services; HIV/AIDS, Tuberculosis
Control/Refugee Health**

R388-804

**Special Measures for the Control of
Tuberculosis**

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 29980
FILED: 05/29/2007, 15:20

**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 by Sections 26-6-4, 26-6-6, 26-6-7, 26-6-8, and 26-6-9 of the Utah Communicable Disease Control Act and Title 26,

Chapter 6b, Communicable Diseases-Treatment, Isolation and Quarantine Procedures. It establishes standards for the testing, control, and prevention of tuberculosis which is a communicable disease.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have not been any written comments received during and since the last five-year review of the rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose of this rule is to focus the efforts of tuberculosis control on disease elimination. This rule is aimed at all persons who advocate, plan, and work at controlling and preventing tuberculosis in Utah. The standards outlined in this rule constitute the minimum expectations in the care and treatment of individuals diagnosed with, suspected to have, or exposed to tuberculosis. Continuation of the rule is critical to providing a coherent and practical approach to providing significant science-based protection of the population against tuberculosis.

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

HEALTH
EPIDEMIOLOGY AND LABORATORY SERVICES;
HIV/AIDS, TUBERCULOSIS CONTROL/
REFUGEE HEALTH
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:

Jennifer Brown at the above address, by phone at 801-538-6131, by FAX at 801-538-9913, or by Internet E-mail at jenniferbrown@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 05/29/2007



Health, Health Care Financing,
Coverage and Reimbursement Policy

R414-1A

Medicaid Policy for Experimental,
Investigational or Unproven Medical
Practices

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 29960
FILED: 05/21/2007, 15:58

**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 26-1-5 authorizes the Department to adopt, amend, or rescind rules as necessary to carry out the provisions of this title. Sections 26-1-15 and 26-18-6 authorize the executive director with the approval of the governor to accept, bind, receive, and expend federal dollars to administer programs established by any executive or legislative provisions promulgated or enacted by the federal government or any agency thereof. Subsections 26-18-3(2) and 26-18-5(4) authorize the Division to establish administrative rules compliant with the Social Security Act and other federal law to determine what constitutes experimental, investigational, or unproven medical practices and to exclude them from covered Medicaid services.

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 or oral comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary because it serves as a utilization review and cost saving control. As most experimental and investigational procedures are very expensive and of unproven value, it is important to allocate dollars to proven medical care, thereby preventing unnecessary expenditures that may limit available funds to clients. Therefore, this rule should be continued.

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 at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 05/21/2007



Health, Health Care Financing,
Coverage and Reimbursement Policy

R414-60

Medicaid Policy for Pharmacy
Copayment Procedures

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 29961
FILED: 05/21/2007, 16:01

**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 26-18-105 authorizes the Division to establish and administer a drug prior approval program. 42 CFR 447.331 authorizes the Division to establish pharmacy policy for reimbursement of covered, prescribed, outpatient drugs dispensed to eligible Medicaid clients. 42 CFR 447.15 and 447.50 authorize the Division to establish copayment policy for clients who are not federally exempt from copayment requirements.

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 or oral comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary because it establishes Medicaid policy for pharmacy services that include eligibility, access, coverage, limitations, copayment, and reimbursement. This rule serves as an important utilization review and cost saving tool. Therefore, this rule should be continued.

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 at the above address, by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 05/21/2007

Health, Health Care Financing,
Coverage and Reimbursement Policy

R414-100

Medicaid Primary Care Network
Services

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE NO.: 29966
FILED: 05/24/2007, 11:49

**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 26-18-3 establishes the Department as the single state agency responsible for the administration of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act. Section 26-18-3 also requires the Department to enact administrative rules to implement Medicaid programs. Section 1115 of the Social Security Act authorizes the Division to establish waiver programs to provide services not otherwise available to Medicaid clients. The Primary Care Network (PCN) Services program is a waiver program allowed under Section 1115 of the Social Security Act, which the Department implements under these statutes.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Written comments from PCN clients indicate that they wish PCN services to continue.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary because it specifies the services available under the PCN. This rule also details the cost sharing provisions for PCN clients. Therefore, this rule should be continued.

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:
 Melissa Frost at the above address, by phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at mlfrost@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 05/24/2007

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:
 Melissa Frost at the above address, by phone at 801-538-6381, by FAX at 801-538-6099, or by Internet E-mail at mlfrost@utah.gov

AUTHORIZED BY: David N. Sundwall, Executive Director

EFFECTIVE: 05/24/2007

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**Health, Health Care Financing,
 Coverage and Reimbursement Policy
 R414-200
 Non-Traditional Medicaid Health Plan
 Services**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 29967
 FILED: 05/24/2007, 11:56

**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 26-18-3 establishes the Department as the single state agency responsible for the administration of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act. Section 26-18-3 also requires the Department to enact administrative rules to implement Medicaid programs. Section 1115 of the Social Security Act authorizes the Division to establish waiver programs to provide services not otherwise available to Medicaid clients. The Non-Traditional Medicaid Health Plan Services program is a waiver program allowed under Section 1115 of the Social Security Act, which the Department implements under these statutes.

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 or oral comments have been received regarding this rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary because it specifies the services available under the Non-Traditional Medicaid Health Plan (NTMHP) waiver. This rule also details the cost sharing provisions for NTMHP clients. Therefore, this rule should be continued.

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**Human Services, Juvenile Justice
 Services
 R547-1
 Residential and Nonresidential,
 Nonsecure Community Program
 Standards**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 29992
 FILED: 05/30/2007, 15:29

**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: See Sections 62A-7-701 and 62A-7-106-5. The division shall adopt minimum standards for the organization and operation of community-based corrections programs for youth offenders.

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 CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: During the course of the five-year review process, the agency determined that the rule should be continued, as there is an ongoing need for minimum standards for the organization and operation of residential and nonresidential, nonsecure community programs. A nonsubstantive change to a Code reference is forthcoming.

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

HUMAN SERVICES
 JUVENILE JUSTICE SERVICES
 Room 419
 120 N 200 W
 SALT LAKE CITY UT 84103-1500, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Judy Hammer at the above address, by phone at 801-538-4098, by FAX at 801-538-4334, or by Internet E-mail at judyhammer@utah.gov

AUTHORIZED BY: Dan Maldonado, Director

EFFECTIVE: 05/30/2007

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**Human Services, Juvenile Justice
 Services
 R547-3
 Juvenile Jail Standards**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 29993
 FILED: 05/30/2007, 15:31

**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: See Subsection 62A-7-201(3). The division is responsible for providing juvenile holding facilities with adult facilities on a short-term basis.

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 CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The division continues to be responsible for monitoring juvenile holding rooms within adult jail facilities. Therefore, this rule should be continued.

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

HUMAN SERVICES
 JUVENILE JUSTICE SERVICES
 Room 419
 120 N 200 W
 SALT LAKE CITY UT 84103-1500, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Judy Hammer at the above address, by phone at 801-538-4098, by FAX at 801-538-4334, or by Internet E-mail at judyhammer@utah.gov

AUTHORIZED BY: Dan Maldonado, Director

EFFECTIVE: 05/30/2007

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**Human Services, Juvenile Justice
 Services
 R547-7
 Juvenile Holding Room Standards**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 29990
 FILED: 05/30/2007, 15:25

**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 62A-7-201(3) indicates the division is responsible for providing juvenile holding facilities within adult facilities on a short-term basis.

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 CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The division continues to be responsible for monitoring juvenile holding rooms in adult facilities. Therefore, this rule should be continued. Nonsubstantive changes are forthcoming.

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

HUMAN SERVICES
 JUVENILE JUSTICE SERVICES
 Room 419
 120 N 200 W
 SALT LAKE CITY UT 84103-1500, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

Judy Hammer at the above address, by phone at 801-538-4098, by FAX at 801-538-4334, or by Internet E-mail at judyhammer@utah.gov

AUTHORIZED BY: Dan Maldonado, Director

EFFECTIVE: 05/30/2007

EFFECTIVE: 05/30/2007

Human Services, Juvenile Justice
Services

R547-12

Division of Juvenile Justice Services
Classification of Records

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 29991
FILED: 05/30/2007, 15:27

**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: See Sections 62A-7-101 et seq. and 63-2-101 et seq. The division is required to comply with the Government Records Access and Management Act (GRAMA).

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 CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: During the five-year review, it was determined that the division will continue to comply with GRAMA regulations. Therefore, this rule should be continued. Nonsubstantive changes are forthcoming.

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

HUMAN SERVICES
JUVENILE JUSTICE SERVICES
Room 419
120 N 200 W
SALT LAKE CITY UT 84103-1500, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Judy Hammer at the above address, by phone at 801-538-4098, by FAX at 801-538-4334, or by Internet E-mail at judyhammer@utah.gov

AUTHORIZED BY: Dan Maldonado, Director

Natural Resources, Wildlife Resources

R657-4

Possession of Live Game Birds

**FIVE YEAR NOTICE OF REVIEW AND
STATEMENT OF CONTINUATION**

DAR FILE No.: 29996
FILED: 05/31/2007, 08:40

**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: Under Sections 23-13-4, 23-14-18, and 23-14-19, the Wildlife Board is authorized to adopt rules for the possession, importation, purchase, propagation, sale, barter, trade, or disposal of live game birds.

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 supporting or opposing Rule R657-4 were received since 05/31/2002, when the rule was last reviewed.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-4 provides the procedures and requirements for the possession, importation, purchase, propagation, sale, barter, trade, or disposal of live game birds. The procedures adopted in this rule have provided an effective and efficient process. Continuation of this rule is necessary for continued success of this program.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY UT 84116-3154, or
at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
Staci Coons at the above address, by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: James F Karpowitz, Director

EFFECTIVE: 05/31/2007

Public Safety, Fire Marshal
R710-1
 Concerns Servicing Portable Fire
 Extinguishers

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 29981
 FILED: 05/30/2007, 11:06

**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 53-7-204 directs the Utah Fire Prevention Board to create administrative rules that establish minimum standards that regulate the sale and servicing of portable fire extinguishers in the interest of safeguarding lives and property.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R710-1 has been amended six times since the last five-year review in 2002. During those six substantive amendments, there were no written comments received supporting or opposing the proposed amendments. It has been the policy of the Utah Fire Prevention Board for many years that those that will be effected by the proposed rule change are notified early in the process, so they can participate at Board meeting discussions and any concerns can be aired and resolved before the formal filing of the proposed administrative rule.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: There are approximately 100 portable fire extinguisher companies licensed in the State of Utah. Utah has adopted the National Fire Protection Association Standard 10, Standard for Portable Fire Extinguishers, that requires that portable fire extinguishers be inspected and/or serviced yearly. Portable fire extinguishers are the very first line of defense to stop a fire in its incipient stage when it can be controlled. It is imperative that the portable fire extinguisher work when needed. Our office oversees those companies and technicians that service and sell portable fire extinguishers. Each technician has to pass written and practical examinations and be certified by the State Fire Marshal before allowance is given to service portable fire extinguishers. It is imperative that professional standards and qualifications be maintained to ensure that portable fire extinguishers work when needed. Therefore, this rule should be continued.

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:
 Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

EFFECTIVE: 05/30/2007



Public Safety, Fire Marshal
R710-7
 Concerns Servicing Automatic Fire
 Suppression Systems

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE No.: 30007
 FILED: 05/31/2007, 14:17

**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 53-7-204 directs the Utah Fire Prevention Board to create administrative rules establishing minimum standards to regulate the servicing of automatic fire suppression hood systems in the interest of safeguarding lives and property.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R710-7 has been amended six times since the last five-year review in 2002. Under DAR No. 26001, that was effective on 03/18/2003, the Fire Prevention Board directed that all existing dry chemical fire suppression hood systems be removed from use statewide by 01/01/2006. The only written comment received in the last five years was in favor of the removal of the dry chemical fire suppression hood systems statewide.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Automatic fire suppression hood systems are the automatic systems over grills, deep fat fryers, tilt skillets, etc. that form the first line of defense when a fire occurs in a commercial cooking system. Almost always, the automatic fire suppression hood system extinguishes or controls the fire before the fire department ever arrives on scene. It is imperative that those systems work correctly due to their complicated functioning process, and this rule administers the requirements for the service technicians that work on these systems. Therefore, this rule should be continued.

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.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 TECHNOLOGY SERVICES
 ADMINISTRATION
 Room 6000 STATE OFFICE BUILDING
 450 N STATE ST
 SALT LAKE CITY UT 84114, or
 at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 Brent Halladay at the above address, by phone at 801-284-6352, by FAX at 801-284-6351, or by Internet E-mail at bhallada@utah.gov

DIRECT QUESTIONS REGARDING THIS RULE TO:
 William Shiflett at the above address, by phone at 801-538-3548, by FAX at 801-538-9787, or by Internet E-mail at williams@utah.gov

AUTHORIZED BY: Ron L. Morris, Utah State Fire Marshal

AUTHORIZED BY: J Stephen Fletcher, CIO and Executive Director

EFFECTIVE: 05/31/2007

EFFECTIVE: 05/29/2007

◆ ————— ◆
Technology Services, Administration
R895-3
 Computer Software Licensing,
 Copyright, Control, Retention, and
 Transfer

◆ ————— ◆
Workforce Services, Unemployment
Insurance
R994-102
 Employment Security Act, Public Policy
 and Authority

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**
 DAR FILE No.: 29978
 FILED: 05/29/2007, 13:49

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**
 DAR FILE No.: 29954
 FILED: 05/16/2007, 17:22

**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 issued by the Chief Information Officer under the authority of Section 63F-1-206 of the Technology Governance Act, and in accordance with Section 63-46a-3 of the Utah Rulemaking Act.

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 35A-4-102 sets forth the public policy considerations of the Employment Security Act and the creation, under the state's police power, of free public employment offices and the setting aside of reserves for the payment to unemployed individuals. Subsection 35A-4-502(1)(b) authorizes the Department to make rules as necessary for the administration of the Act. Subsection 35A-1-104(a) authorizes the Department to adopt rules. The Utah Court of Appeals has repeatedly held that the Act should be liberally construed in favor of granting benefits because it is remedial in nature.

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 since the last review.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has received no comments since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it establishes the State of Utah's position for complying with computer software licensing agreements and applicable federal laws, including copyright and patent laws. It also defines the methods by which the State of Utah will control and protect computer software and establish the State's right, title, and interest in state-developed computer software, including the sale and transfer of such software under certain conditions.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to explain the provisions of statute and settled case law

concerning the Employment Security Act. Therefore, this rule should be continued.

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

WORKFORCE SERVICES
 UNEMPLOYMENT INSURANCE
 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 at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 05/16/2007



Workforce Services, Unemployment Insurance
R994-106
Combined Wage Claims

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 29955
 FILED: 05/17/2007, 13:51

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 35A-4-106 authorizes the Department to enter into reciprocal arrangements with other states or the federal government for the payment of combined unemployment insurance claims. Because unemployment insurance is considered a federal/state program and Utah citizens are better served by combining claims using wages from other states, the Department entered into such an agreement approved by the Interstate Conference of Employment Security Agencies. This rule reflects federal regulation and agreements made by that Conference. Section 35A-4-102 sets forth the public policy considerations of the Employment Security Act and the creation, under the state's police power, of free public employment offices and the setting aside of reserves for the payment to unemployed individuals. Subsection 35A-4-502(1)(b) authorizes the Department to make rules as necessary for the administration of the Act. Subsection 35A-1-104(a) authorizes the Department to adopt rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has received no comments since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to support the interstate agreement and federal law and explain how multi-state claims will be determined. Therefore, this rule should be continued.

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

WORKFORCE SERVICES
 UNEMPLOYMENT INSURANCE
 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 at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 05/17/2007



Workforce Services, Unemployment Insurance
R994-303
Contribution Rates and Relief of Charges

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 29956
 FILED: 05/17/2007, 14:07

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 35A-4-303 establishes contribution rates for employers. This rule explains when and how the rate is determined and when and how to appeal a rate. The rule also explains and defines terms such as successorship necessary to avoid "SUTA dumping" (State Unemployment Tax Act) which occurs when an employer with a high unemployment rate makes changes to unlawfully obtain a lower rate. Section 35A-4-102 sets forth the public policy considerations of the Employment Security Act and the creation, under the state's police power, of free public employment offices and the setting aside of reserves for the payment to unemployed individuals. Subsection 35A-4-502(1)(b) authorizes the Department to make rules as necessary for the administration of the Act. Subsection 35A-1-104(a) authorizes the Department to adopt rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has received no comments since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to define terms, explain how and when rates are assigned, and the basis for making the rate determination. Therefore, this rule should be continued. It should be noted that this rule is being repealed and reenacted effective 07/01/2007. There are no substantive changes to the reenactment but many changes were made to eliminate archaic language and reflect changes in Department procedures. (DAR NOTE: The repeal and reenactment on Rule R994-303 is under DAR No. 29687 in the April 1, 2007, issue of the Bulletin.)

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

WORKFORCE SERVICES
 UNEMPLOYMENT INSURANCE
 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 at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 05/17/2007



Workforce Services, Unemployment Insurance
R994-401
Payment of Benefits

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 29959
 FILED: 05/17/2007, 16:11

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 35A-4-401 provides: "All benefits shall be paid through the employment offices or other agencies designated by the division in accordance with the rules the department may prescribe in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act." Subsection 35A-4-502(1)(b) authorizes the Department to make rules as necessary for the administration of the Act.

Subsection 35A-1-104(a) authorizes the Department to adopt rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has received no comments since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule was completely rewritten in the summer of 2006 to ensure that it complies with law and Department practice. It is necessary to define terms in the statute and Department practice like determining when a benefit week starts and earnings necessary for eligibility. It is also necessary to effectuate the statutory requirement that the Department pass rules to prescribe how and when benefits are paid. Therefore, this rule should be continued.

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

WORKFORCE SERVICES
 UNEMPLOYMENT INSURANCE
 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 at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 05/17/2007



Workforce Services, Unemployment Insurance
R994-402
Extended Benefits

FIVE YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 29958
 FILED: 05/17/2007, 16:02

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 35A-4-402 provides for extended unemployment compensation benefits which can be paid in compliance with "federal requirements as adopted by state regulation". Section 35A-4-102 sets forth the public policy considerations of the Employment Security Act and the creation, under the state's police power, of free public employment offices and the setting aside of reserves for the

payment to unemployed individuals. Subsection 35A-4-502(1)(b) authorizes the Department to make rules as necessary for the administration of the Act. Subsection 35A-1-104(a) authorizes the Department to adopt rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has received no comments since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Extended benefits are paid during periods of high unemployment as determined by the federal government. This rule is necessary to explain when and how extended benefits are paid under Section 35A-4-402 and federal regulation including provisions for overpayments and the requirement that claimants accept suitable new work. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 WORKFORCE SERVICES
 UNEMPLOYMENT INSURANCE
 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 at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 05/17/2007

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**Workforce Services, Unemployment
 Insurance
 R994-404
 Payments Following Workers'
 Compensation**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE NO.: 29962
 FILED: 05/22/2007, 16:38

**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 35A-4-404 provides for a modified time line for filing for unemployment benefits for employees who are off work as a result of a workers'

compensation claim. Subsection 35A-4-502(1)(b) authorizes the Department to make rules as necessary for the administration of the Act. Subsection 35A-1-104(a) authorizes the Department to adopt rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has received no comments since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary to define terms, including the meaning of "continuous" as contained in Section 35A-4-404 and to explain how to modify the base period. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 WORKFORCE SERVICES
 UNEMPLOYMENT INSURANCE
 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 at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 05/22/2007

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**Workforce Services, Unemployment
 Insurance
 R994-406
 Fraud, Fault and Nonfault
 Overpayments**

**FIVE YEAR NOTICE OF REVIEW AND
 STATEMENT OF CONTINUATION**

DAR FILE NO.: 29963
 FILED: 05/22/2007, 16:48

**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: Sections 35A-4-405 and 35A-4-406 provide for nonfault, fault, and fraud overpayments in unemployment cases. Subsection 35A-4-502(1)(b) authorizes the Department to make rules as necessary for the administration of the Act. Subsection 35A-1-104(a) authorizes the Department to adopt rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has received no comments since the last five-year review.

REASONED JUSTIFICATION FOR CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: All of the overpayment provisions were combined into this rule in 2006 as part of the Departments multi-year process to rewrite all of our rules. It is easier for parties and employees to find overpayment information now that it is all in one rule. Subsection 35A-4-405(5) contains the fraud provisions in the statute and the rule is necessary to define terms and explain repayment requirements. Section 35A-4-406 provides for nonfault and fault overpayments. This rule is necessary to define those two types of overpayments and when repayment is required. Therefore, this rule should be continued.

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

WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
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 at the above address, by phone at 801-526-9645, by FAX at 801-526-9211, or by Internet E-mail at spixton@utah.gov

AUTHORIZED BY: Kristen Cox, Executive Director

EFFECTIVE: 05/22/2007



End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63-46a-9). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file an extension with the Division of Administrative Rules. The extension permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed extensions for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date. The five-year review extension is governed by Subsection 63-46a-9(4) and (5).

Community and Culture

Home Energy Assistance Target (HEAT)

No. 29982: R195-2 (was R202-202). Energy Assistance: Program Standards.

ENACTED OR LAST REVIEWED: 06/14/2002 (No. 24970, 5YR, filed 06/14/2002 at 10:44 a.m., published 07/01/2002).

EXTENDED DUE DATE: 10/12/2007

No. 29983: R195-3 (was R202-203). Energy Assistance: Income Standards, Income Eligibility, and Payment Determination.

ENACTED OR LAST REVIEWED: 06/14/2002 (No. 24971, 5YR, filed 06/14/2002 at 10:54 a.m., published 07/01/2002).

EXTENDED DUE DATE: 10/12/2007

No. 29984: R195-4 (was R202-204). Energy Assistance: Asset Standards.

ENACTED OR LAST REVIEWED: 06/14/2002 (No. 24972, 5YR, filed 06/14/2002 at 11:04 a.m., published 07/01/2002).

EXTENDED DUE DATE: 10/12/2007

No. 29985: R195-5 (was R202-205). Energy Assistance: Program Benefits.

ENACTED OR LAST REVIEWED: 06/14/2002 (No. 24973, 5YR, filed 06/14/2002 at 11:08 a.m., published 07/01/2002).

EXTENDED DUE DATE: 10/12/2007

No. 29986: R195-6 (was R202-206). Energy Assistance: Eligibility Determination.

ENACTED OR LAST REVIEWED: 06/14/2002 (No. 24974, 5YR, filed 06/14/2002 at 11:19 a.m., published 07/01/2002).

EXTENDED DUE DATE: 10/12/2007

No. 29987: R195-7 (was R202-207). Energy Assistance: Records and Benefit Management.

ENACTED OR LAST REVIEWED: 06/14/2002 (No. 24975, 5YR, filed 06/14/2002 at 11:23 a.m., published 07/01/2002).

EXTENDED DUE DATE: 10/12/2007

No. 29988: R195-8 (was R202-208). Energy Assistance: Special State Programs.

ENACTED OR LAST REVIEWED: 06/14/2002 (No. 24976, 5YR, filed 06/14/2002 at 11:31 a.m., published 07/01/2002).

EXTENDED DUE DATE: 10/12/2007

Transportation

Operations, Aeronautics

No. 30000: R914-1. Rules and Regulations of the Utah State Aeronautical Committee.

ENACTED OR LAST REVIEWED: 06/25/2002 (No. 25024, 5YR, filed 06/25/2002 at 2:35 p.m., published 07/15/2002).

EXTENDED DUE DATE: 10/23/2007

NOTICES OF FIVE-YEAR REVIEW EXTENTIONS

No. 30001: R914-2. Safety Rules and Procedures for Aircraft Operations on Roads.
ENACTED OR LAST REVIEWED: 06/25/2002 (No. 25025, 5YR, filed 06/25/2002 at 2:41 p.m., published 07/15/2002).
EXTENDED DUE DATE: 10/23/2007

Operations, Traffic and Safety

No. 30002: R920-1. Manual of Uniform Traffic Control Devices.
ENACTED OR LAST REVIEWED: 06/25/2002 (No. 25021, 5YR, filed 06/25/2002 at 2:12 p.m., published 07/15/2002).
EXTENDED DUE DATE: 10/23/2007

No. 30003: R920-2. Traffic Control Systems for Railroad-Highway Grade Crossings.
ENACTED OR LAST REVIEWED: 06/25/2002 (No. 25022, 5YR, filed 06/25/2002 at 2:19 p.m., published 07/15/2002).
EXTENDED DUE DATE: 10/23/2007

Preconstruction, Right-of-Way Acquisition

No. 30004: R933-5. Utah-Federal Agreement for the Control of Outdoor Advertising.
ENACTED OR LAST REVIEWED: 06/04/2002 (No. 24687, NEW, filed 04/03/2002 at 8:12 p.m., published 05/01/2002).
EXTENDED DUE DATE: 10/02/2007

End of the Notices of Five-Year Review Extensions Section

NOTICES OF RULE EFFECTIVE DATES

These are the effective dates of PROPOSED RULES or CHANGES IN PROPOSED RULES published in earlier editions of the *Utah State Bulletin*. Statute permits an agency to make a rule effective "on any date specified by the agency that is no fewer than seven calendar days after the close of the public comment period . . . , nor more than 120 days after the publication date." Subsection 63-46a-4(9).

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal and Reenact

REP = Repeal

Administrative Services

Administration

No. 29772 (AMD): R13-2. Access to Records.

Published: April 15, 2007

Effective: May 22, 2007

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No. 29710 (AMD): R152-34. Postsecondary Proprietary School Act Rules.

Published: April 15, 2007

Effective: May 22, 2007

No. 29413 (NEW): R152-42. Uniform Debt-Management Services Act Rules.

Published: February 1, 2007

Effective: May 22, 2007

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Published: April 15, 2007

Effective: May 22, 2007

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Published: April 15, 2007

Effective: May 24, 2007

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Published: April 15, 2007

Effective: May 30, 2007

No. 29736 (AMD): R162-3-6. Renewal and Reinstatement.

Published: April 15, 2007

Effective: May 30, 2007

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Published: April 15, 2007

Effective: May 30, 2007

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Published: April 15, 2007

Effective: May 30, 2007

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Published: April 15, 2007

Effective: May 30, 2007

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Published: April 15, 2007

Effective: May 30, 2007

No. 29711 (AMD): R162-102. Application Procedures.

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Effective: May 29, 2007

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Effective: May 29, 2007

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Effective: May 22, 2007

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Published: April 15, 2007

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Published: April 15, 2007

Effective: May 31, 2007

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Published: April 15, 2007

Effective: May 23, 2007

No. 29731 (AMD): R414-310. Medicaid Primary Care Network Demonstration Waiver.

Published: April 15, 2007

Effective: May 23, 2007

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Published: April 15, 2007

Effective: May 29, 2007

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Published: February 15, 2007

Effective: May 25, 2007

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Published: April 15, 2007

Effective: May 25, 2007

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Published: April 15, 2007

Effective: May 23, 2007

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Published: April 15, 2007

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Published: April 15, 2007

Effective: May 23, 2007

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Published: January 15, 2007

Effective: May 17, 2007

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Published: April 1, 2007

Effective: May 17, 2007

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Published: January 15, 2007

Effective: May 17, 2007

No. 29377 (CPR): R746-430. Procedural and Informational Requirements for Review of Utility's Action Plan.

Published: April 1, 2007

Effective: May 17, 2007

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DAR NOTE: The index may contain inaccurate page number references. Also the index is incomplete in the sense that index entries for Changes in Proposed Rules (CPRs) are not preceded by entries for their parent Proposed Rules. Bulletin issue information and effective date information presented in the index are, to the best of our knowledge, complete and accurate. If you have any questions regarding the index and the information it contains, please contact Nancy Lancaster (801 538-3218), Mike Broschinsky (801 538-3003), or Kenneth A. Hansen (801 538-3777).

A copy of the *Rules Index* is available for public inspection at the Division of Administrative Rules (4120 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	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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ABBREVIATIONS

AMD = Amendment	NSC = Nonsubstantive rule change
CPR = Change in proposed rule	REP = Repeal
EMR = Emergency rule (120 day)	R&R = Repeal and reenact
NEW = New rule	5YR = Five-Year Review
EXD = Expired	

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	29760	R652-20	5YR	04/02/2007	2007-8/133
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	29568	R311-201	NSC	04/18/2007	Not Printed
	29839	R311-201	5YR	04/18/2007	2007-10/113
	29840	R311-202	5YR	04/18/2007	2007-10/114
	29569	R311-202	NSC	04/18/2007	Not Printed
	29570	R311-203	NSC	04/18/2007	Not Printed
	29841	R311-203	5YR	04/18/2007	2007-10/114
	29571	R311-204	NSC	04/18/2007	Not Printed
	29842	R311-204	5YR	04/18/2007	2007-10/115
	29572	R311-205	NSC	04/18/2007	Not Printed
	29843	R311-205	5YR	04/18/2007	2007-10/116
	29573	R311-206	NSC	04/18/2007	Not Printed
	29844	R311-206	5YR	04/18/2007	2007-10/116
	29845	R311-207	5YR	04/18/2007	2007-10/117
	29574	R311-207	NSC	04/18/2007	Not Printed
	29575	R311-208	NSC	04/18/2007	Not Printed
	29846	R311-208	5YR	04/18/2007	2007-10/118
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	29576	R311-209	NSC	04/18/2007	Not Printed
	29848	R311-210	5YR	04/18/2007	2007-10/119
	29577	R311-210	NSC	04/18/2007	Not Printed
	29578	R311-211	NSC	04/18/2007	Not Printed
	29849	R311-211	5YR	04/18/2007	2007-10/119
	29579	R311-212	NSC	04/18/2007	Not Printed
	29850	R311-212	5YR	04/18/2007	2007-10/120
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	29955	R994-106	5YR	05/17/2007	2007-12/70
	29956	R994-303	5YR	05/17/2007	2007-12/71
	29743	R994-306-202	NSC	04/12/2007	Not Printed
	29959	R994-401	5YR	05/17/2007	2007-12/71
	29958	R994-402	5YR	05/17/2007	2007-12/72
	29962	R994-404	5YR	05/22/2007	2007-12/72
	29963	R994-406	5YR	05/22/2007	2007-12/73
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<u>vendor approval</u> Administrative Services, Fleet Operations	29534	R27-8	5YR	02/21/2007	2007-6/36
<u>ventilation</u> Health, Epidemiology and Laboratory Services, Environmental Services	29856	R392-510	5YR	04/23/2007	2007-10/124
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	29220	R270-1-26	AMD	01/10/2007	2006-23/6
<u>victims of crime</u> Crime Victim Reparations, Administration	29753	R270-1	AMD	05/22/2007	2007-8/41
<u>victims of crimes</u> Crime Victim Reparations, Administration	29220	R270-1-26	AMD	01/10/2007	2006-23/6
<u>visitation</u> Corrections, Administration	29462	R251-305	5YR	01/31/2007	2007-4/58
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<u>waste disposal</u> Environmental Quality, Solid and Hazardous Waste	29202	R315-301	AMD	02/01/2007	2006-23/17
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	29203	R315-302	AMD	02/01/2007	2006-23/22
	29204	R315-303	AMD	02/01/2007	2006-23/28
	29754	R315-304	5YR	03/30/2007	2007-8/128
	29205	R315-304	AMD	02/01/2007	2006-23/33
	29566	R315-305-4	NSC	03/09/2007	Not Printed
	29206	R315-305-4	AMD	02/01/2007	2006-23/35
	29207	R315-306-2	AMD	02/01/2007	2006-23/37
	29208	R315-308	AMD	02/01/2007	2006-23/38
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