

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
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Nancy L. Lancaster, Managing Editor

The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah state government. The Office of Administrative Rules, part of the Department of Administrative Services, produces the *Bulletin* under authority of Section 63G-3-402.

The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at <https://rules.utah.gov/>. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3003. Additional rulemaking information and electronic versions of all administrative rule publications are available at <https://rules.utah.gov/>.

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

Office of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Health Health Care Financing, Coverage and Reimbursement Policy

Notice for April 2018 Medicaid Rate Changes

Effective April 1, 2018, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies, potential adjustments to existing codes, and nursing home rate changes to case mix components consistent with adopted payment methodology. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php>.

Health Health Care Financing, Coverage and Reimbursement Policy

Publication Error in the March 1, 2018, Bulletin for Filing No. 42594 on Section R414-3A-5

In preparing the PDF version of the March 1, 2018, issue of the Utah State Bulletin, the Office of Administrative Rules inserted the text for Rule R414-518 after the rule analysis for Section R414-3A-5, Filing No. 42594. Rule R414-518, Filing No. 42595, was itself published correctly.

The text of Section R414-3A-5 and the fiscal analysis are below. This error does not change the timeline for Section R414-3A-5. The public comment period will end on 04/02/2018 and the first possible effective date is 04/09/2018.

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	Undetermined business revenue	Undetermined business revenue	Undetermined business revenue
Non-Small Businesses	Undetermined business revenue	Undetermined business revenue	Undetermined business revenue
Other Persons	Undetermined business	Undetermined business	Undetermined business

SPECIAL NOTICES

	revenue	revenue	revenue
Total Fiscal Benefits:	Undetermined business revenue	Undetermined business revenue	Undetermined business revenue
Net Fiscal Benefits:	Undetermined business revenue	Undetermined business revenue	Undetermined business revenue

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.**

Appendix 2: Regulatory Impact to Non-Small Businesses

Businesses will see more revenue through the revised list of sleep accreditation organizations that now includes three organizations. Nevertheless, there are not sufficient nor cost effective data available to determine what those increases may be.

The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.

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

R414-3A. Outpatient Hospital Services.

R414-3A-5. Services.

(1) Services appropriate in the outpatient hospital setting encompass medically necessary diagnostic, therapeutic, rehabilitative, or palliative medical services and supplies.

(2) Outpatient hospital services include:

- (a) the service of nurses or other personnel necessary to complete the service and provide member care during the provision of service;
- (b) the use of hospital facilities, equipment, and supplies; and
- (c) the technical portion of clinical laboratory and radiology services.

(3) Cosmetic or reconstructive procedures are set forth in Section R414-1-29.

(4) ~~[Sleep studies are available only in a sleep disorder center accredited by the American Academy of Sleep Medicine.]~~ Coverage of sleep studies requires sleep center accreditation through one of the following nationally recognized accreditation organizations:

- (a) American Academy of Sleep Medicine (AASM);
- (b) Accreditation Commission for Health Care (ACHC); or
- (c) The Joint Commission (TJC).

(5) Hyperbaric oxygen therapy is limited to service in a facility in which the hyperbaric unit is accredited by the Undersea and Hyperbaric Medical Society. Hyperbaric oxygen therapy is therapy that places the member in an enclosed pressure chamber for medical treatment.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: ~~[July 1, 2017]~~ **2018**

Notice of Continuation: September 15, 2017

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-2.3; 26-18-3(2); 26-18-4

This mistake does not appear in the HTML version of the Bulletin on the Office's website, <https://rules.utah.gov>. There, each rule analysis is published with the correct rule.

Direct questions regarding this rule to: Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by E-mail at cdevashrayee@utah.gov or PO Box 143102, Salt Lake City, UT 84114-3102.

Questions regarding this error can be directed to: Nancy Lancaster by phone at 801-538-3218 or by E-mail at nllancaster@utah.gov.

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between February 16, 2018, 12:00 a.m., and March 01, 2018, 11:59 p.m. are included in this, the March 15, 2018, issue of the *Utah State Bulletin*.

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

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them (~~example~~). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (.) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Office 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 April 16, 2018. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through July 13, 2018, the agency may notify the Office 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 Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

The Proposed Rules Begin on the Following Page

Administrative Services, Administration
R13-3
Americans with Disabilities Act
Grievance Procedures

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 42634
 FILED: 03/01/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to bring the rule in line with federal law/rule.

SUMMARY OF THE RULE OR CHANGE: This rule change will update the rule to match federal law/rule by removing an inappropriate line in two places, Subsections R13-3-4(3)(c) and R13-3-6(5)(c). It also updates minor things such as changing GOPM to GOMB.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 28 CFR Part 35 and 42 U.S.C 126, Sections 12131 - 12134 and Section 63A-1-105.5 and Subsection 63G-3-201(3)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is one state agency, the Department of Administrative Services (DAS), that will be affected by the changes to this rule. There is an inestimable benefit that will occur as this rule change updates the rule to match federal law/rule and limits exposure to breaking the law. The proposed rule change is not expected to impact state revenues or expenditures as any claim against the state for violation of the ADA is already considered in the State Risk Fund and the DAS (specifically, the Division of Risk Management (Division)) budget.

◆ **LOCAL GOVERNMENTS:** Local governments will not be affected by the changes to this rule as the changes apply only to DAS.

◆ **SMALL BUSINESSES:** Small businesses will not be affected by the changes to this rule as the changes apply only to DAS.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** An inestimable benefit will occur for other individuals because of the changes to this rule. If individuals file an ADA grievance with DAS, the individuals can expect DAS to follow federal regulations regarding the handling of the grievance.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--The amendment simply aligns the rule with controlling federal law and imposes no requirement on affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The analysis performed by the Division is in line with the criteria established by GOMB and is sufficient. I agree with the Division's assessment that there will be no impact on businesses, as the changes only affect DAS.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ADMINISTRATIVE SERVICES
 ADMINISTRATION
 ROOM 3120 STATE OFFICE BLDG
 450 N STATE ST
 SALT LAKE CITY, UT 84114-1201
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Mark Petersen by phone at 801-538-9591, or by Internet E-mail at markpetersen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/16/2018

THIS RULE MAY BECOME EFFECTIVE ON: 04/23/2018

AUTHORIZED BY: Tani Downing, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

An inestimable benefit will occur for non-small businesses because of the changes to this rule. If non-small businesses file an ADA grievance with the DAS, the non-small businesses can expect DAS to follow federal regulations regarding the handling of the grievance.

R13. Administrative Services, Administration.**R13-3. Americans with Disabilities Act Grievance Procedures.****R13-3-1. Authority and Purpose.**

(1) This rule is made under authority of Section 63A-1-105.5 and Subsection 63G-3-201(3). As required by 28 CFR 35.107, the Utah Department of Administrative Services, as a public entity that employs more than 50 persons, adopts and publishes the grievance procedures within this rule for the prompt and equitable resolution of complaints alleging any action prohibited by Title II of the Americans with Disabilities Act, as amended.

(2) The purpose of this rule is to implement the provisions of 28 CFR 35 which in turn implements Title II of the Americans with Disabilities Act, which provides that no individual shall be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by the department because of a disability.

R13-3-2. Definitions.

(1) "ADA Coordinator" means the employee assigned by the executive director to investigate and facilitate the prompt and equitable resolution of complaints filed by qualified persons with disabilities. The ADA Coordinator may be a representative of the Department of Human Resource Management assigned to the Department.

(2) "Department" means the Department of Administrative Services created by Section 63A-1-104.

(3) "Designee" means an individual appointed by the executive director or a director to investigate allegations of ADA non-compliance in the event the ADA Coordinator is unable or unwilling to conduct an investigation for any reason, including a conflict of interest. A designee does not have to be an employee of the department; however, the designee must have a working knowledge of the responsibilities and obligations required of employers and employees by the ADA.

(4) "Director" means the head of the division of the Department affected by a complaint filed under this rule.

(5) "Disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(6) "Executive Director" means the executive director of the department.

(7) "Major life activities" include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, and working. A major life activity also includes the operation of a major bodily function, such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

(8) "Qualified Individual" means an individual who meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Department. A

"qualified individual" is also an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that individual holds or desires.

R13-3-3. Filing of Complaints.

(1) Any qualified individual may file a complaint alleging noncompliance with Title II of the Americans with Disabilities Act, as amended, or the federal regulations promulgated thereunder.

(2) Qualified individuals shall file their complaints with the Department's ADA Coordinator, unless the complaint alleges that the ADA Coordinator was non-compliant, in which case qualified individuals shall file their complaints with the Department's designee.

(3) Qualified individuals shall file their complaints within 90 days after the date of the alleged noncompliance to facilitate the prompt and effective consideration of pertinent facts and appropriate remedies; however, the Executive Director has the discretion to direct that the grievance process be utilized to address legitimate complaints filed more than 90 days after alleged noncompliance.

(4) Each complaint shall:

(a) include the complainant's name and address;

(b) include the nature and extent of the individual's disability;

(c) describe the department's alleged discriminatory action in sufficient detail to inform the department of the nature and date of the alleged violation;

(d) describe the action and accommodation desired; and

(e) be signed by the complainant or by his legal representative.

(5) Complaints filed on behalf of classes or third parties shall describe or identify by name, if possible, the alleged victims of discrimination.

(6) If the complaint is not in writing, the ADA coordinator or designee shall transcribe or otherwise reduce the complaint to writing upon receipt of the complaint.

(7) By the filing of a complaint or a subsequent appeal, the complainant authorizes necessary parties to conduct a confidential review all relevant information, including records classified as private or controlled under the Government Records Access and Management Act, Utah Code, Subsection 63G-2-302(1)(b) and Section 63G-2-304, consistent with 42 U.S.C. 12112(d)(4)(A), (B), and (C) and 42 U.S.C. Section 12112(d)(3)(B) and (C), and relevant information otherwise protected by statute, rule, regulation, or other law.

R13-3-4. Investigation of Complaints.

(1) The ADA coordinator or designee shall investigate complaints to the extent necessary to assure all relevant facts are collected and documented. This may include gathering all information listed in Subsection R13-3-3(4) and (7) of this rule if it is not made available by the complainant.

(2) The ADA coordinator or designee may seek assistance from the Attorney General's staff, and the department's human resource and budget staff in determining what action, if any, should be taken on the complaint. The ADA coordinator or designee may also consult with the director of the affected division in making a recommendation.

(3) The ADA coordinator or designee shall consult with representatives from other state agencies that may be affected by the decision, including the Governor's Office of [Planning]Management and Budget, the Department of Human Resource Management, the Division of Risk Management, the Division of Facilities Construction

and Management, and the Office of the Attorney General before making any recommendation that would:

- (a) involve an expenditure of funds beyond what is reasonably able to be accommodated within the applicable line item so that it would require a separate appropriation; or
- (b) require facility modifications~~[-or~~
- ~~_____ (c) require reassignment to a different position].~~

R13-3-5. Recommendation and Decision.

(1) Within 15 working days after receiving the complaint, the ADA coordinator or designee shall recommend to the director what action, if any, should be taken on the complaint. The recommendation shall be in writing or in another accessible format suitable to the complainant.

(2) If the ADA coordinator or designee is unable to make a recommendation within the 15 working day period, the complainant shall be notified in writing, or in another accessible format suitable to the complainant, stating why the recommendation is delayed and what additional time is needed.

(3) The director may confer with the ADA coordinator or designee and the complainant and may accept or modify the recommendation to resolve the complaint. The director shall render a decision within 15 working days after the director's receipt of the recommendation from the ADA coordinator or designee. The director shall take all reasonable steps to implement the decision. The director's decision shall be in writing, or in another accessible format suitable to the complainant, and shall be promptly delivered to the complainant.

R13-3-6. Appeals.

(1) The complainant may appeal the director's decision to the executive director within ten working days after the complainant's receipt of the director's decision.

(2) The appeal shall be in writing or in another accessible format reasonably suited to the complainant's ability.

(3) The executive director may name a designee to assist on the appeal. The ADA coordinator and the director's designee may not also be the executive director's designee for the appeal.

(4) In the appeal the complainant shall describe in sufficient detail why the decision does not effectively address the complainant's needs.

(5) The executive director or designee shall review the ADA coordinator's recommendation, the director's decision, and the points raised on appeal prior to reaching a decision. The executive director may direct additional investigation as necessary. The executive director shall consult with representatives from other state agencies that would be affected by the decision, including the Governor's Office of ~~[Planning]~~Management and Budget, the Department of Human Resource Management, the Division of Risk Management, the Division of Facilities Construction and Management, and the Office of the Attorney General before making any decision that would:

- (a) involve an expenditure of funds beyond what is reasonably able to be accommodated within the applicable line item so that it would require a separate appropriation; or
- (b) require facility modifications~~[-or~~
- ~~_____ (c) require reassignment to a different position.]~~

(6) The executive director shall issue a final decision within 15 working days after receiving the complainant's appeal. The

decision shall be in writing, or in another accessible format suitable to the complainant, and shall be promptly delivered to the complainant.

(7) If the executive director or designee is unable to reach a final decision within the 15 working day period, the complainant shall be notified in writing, or by another accessible format suitable to the complainant, why the final decision is being delayed and the additional time needed to reach a final decision.

R13-3-7. Record Classification.

(1) Records created in administering this rule are classified as "protected" under Subsections 63G-2-305~~[(9), (22), (24), and (25).~~

(2) After issuing a decision under Section R13-3-5 or a final decision upon appeal under Section R13-3-6, portions of the record pertaining to the complainant's medical condition shall be classified as "private" under Subsection 63G-2-302(1)(b) or "controlled" under Section 63G-2-304, consistent with 42 U.S.C. 12112(d)(4)(A), (B), and (C) and 42 U.S.C. 12112(d)(3)(B) and (C), at the option of the ADA coordinator.

(a) The written decision of the division director or executive director shall be classified as "public," and all other records, except controlled records under Subsection R13-3-7(2), classified as "private."

R13-3-8. Relationship to Other Laws.

This rule does not prohibit or limit the use of remedies available to individuals under:

- (a) the state Anti-Discrimination Complaint Procedures, Section 34A-5-107, and Section 67-19-32;
- (b) the Federal ADA Complaint Procedures, 28 CFR 35.170 through 28 CFR 35.178; or
- (c) any other Utah State or federal law that provides equal or greater protection for the rights of individuals with disabilities.

KEY: grievance procedures, disabled persons

Date of Enactment or Last Substantive Amendment: ~~[March 10, 2011]~~**2018**

Notice of Continuation: October 10, 2017

Authorizing, and Implemented or Interpreted Law: 63A-1-105.5; 63G-3-201(3); 28 CFR 35.107

Health, Health Care Financing, Coverage and Reimbursement Policy **R414-1-5** Incorporations by Reference

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42631

FILED: 02/27/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to implement by rule Medicaid policy through incorporating by reference the

January 2018 version of the Medicaid State Plan, and incorporating by reference the January 2018 versions of all Medicaid provider manuals.

SUMMARY OF THE RULE OR CHANGE: The Department of Health (Department) incorporates by reference the Utah Medicaid State Plan and any approved State Plan Amendments (SPAs) to January 2018. Accordingly, the Department incorporates by reference the following: SPA 14-030-UT Optometry Services, which clarifies coverage and limitations on optometry services; SPA 17-0023-UT Quality Improvement Incentive, which clarifies application procedures for the Quality Improvement Incentive program; and SPA 17-0025-UT Long Term Acute Care, which updates citations to the administrative code in reference to inpatient hospital services, removes the reference to the list maintained in the provider manual for medical and surgical procedures as now there is a look-up tool for providers, and removes intensive level-of-care information because it is not specific to inpatient services. This proposed amendment also incorporates by reference the following Medicaid provider manuals to January 2018: Medical Supplies and Durable Medical Equipment Utah Medicaid Provider Manual, and the manual's attachment for Donor Human Milk Request Form; Hospital Services Utah Medicaid Provider Manual with its attachments; Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid; Speech-Language Pathology and Audiology Services Utah Medicaid Provider Manual; Hospice Care Utah Medicaid Provider Manual; Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual, with its attachments; Utah Home and Community-Based Services (HCBS) Waiver for Individuals Age 65 or Older Utah Medicaid Provider Manual; Personal Care Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services for Individuals with an Acquired Brain Injury Utah Medicaid Provider Manual; Utah Community Supports Waiver for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual; Utah Home and Community-Based Services Waiver for Individuals with Physical Disabilities Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual; Utah Home and Community-Based Services Waiver for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual; Utah Home and Community-Based Waiver Services Medicaid Autism Waiver Utah Medicaid Provider Manual; Office of Inspector General (OIG) Administrative Hearings Procedures Manual; Pharmacy Services Utah Medicaid Provider Manual with its attachments; Coverage and Reimbursement Code Look-up Tool; Child Health Evaluation and Care (CHEC) Services Utah Medicaid Provider Manual with its attachments; Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual; General Attachments (All Providers) for the Utah Medicaid Provider Manual; Indian Health Utah Medicaid Provider Manual; Medical Transportation Utah Medicaid Provider Manual; Non-Traditional Medicaid Plan Utah Medicaid Provider Manual with attachment; Licensed Nurse Practitioner Utah Medicaid

Provider Manual; Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual, and the manual's attachment for Physical Therapy and Occupational Therapy Decision Tables; Physician Services Utah Medicaid Provider Manual with its attachments; Podiatric Services Utah Medicaid Provider Manual; Primary Care Network Utah Medicaid Provider Manual with its attachments; Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual; Rural Health Clinics and Federally Qualified Health Centers Services Utah Medicaid Provider Manual; School-Based Skills Development Services Utah Medicaid Provider Manual; Section I: General Information Utah Medicaid Provider Manual; Targeted Case Management for Individuals with Serious Mental Illness Utah Medicaid Provider Manual; Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual; Vision Care Services Utah Medicaid Provider Manual; Medically Complex Children's Waiver Utah Medicaid Provider Manual; Drug Criteria and Limits Policy; and Autism Spectrum Disorder Related Services for EPSDT Eligible Individuals Utah Medicaid Provider Manual. This incorporation of the manuals includes the following changes: The policy for the Telehealth Skilled Nurse Pilot Project for Beneficiaries in Rural Areas is removed from the Home Health Services Provider Manual, and is now found under General Information (Section I) of the Medicaid Provider Manual. Section I also updates criteria for prior authorization requests; The Dental, Oral Maxillofacial, and Orthodontia Services manual clarifies full denture criteria regarding the replacement of permanent teeth with prior authorization. Additional information on coverage and limitations is found in the Coverage and Reimbursement Code Look-up Tool; The Speech-Language Pathology and Audiology Services manual removes language regarding dysphagia. It also updates services and limitations for eligible members and removes the prior authorization requirement for members and pregnant adults who are eligible under the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Program. In addition, specific code information is found in the Coverage and Reimbursement Code Look-up Tool; The Physician Services and Podiatric Services manuals are updated to remove language regarding treatment and evaluations of subluxation or flat feet; In regard to Mental Health Evaluations and Psychological Testing for Physical Health Purposes, the Child Health Evaluation and Care (CHEC) manual clarifies that carve-out policy does not apply to EPSDT members and psychiatric consultations in an inpatient hospital. Updates to the carve-out policy are also found in the rehabilitative Mental Health and Substance Use Disorder Services manual, the Physician Services manual, and the Autism Spectrum Disorder Related Services for EPSDT eligible individuals; Targeted Adult Medicaid (TAM) members are now eligible for services as specified in the Rehabilitative Mental Health and Substance Use Disorder (SUD) Services manual. In addition, the manual removes limitations on SUD treatment for Non-Traditional Medicaid members, as does the provider manual for Targeted Case Management for Individuals with Serious Mental Illness. The Rehabilitative Mental Health and SUD Services manual also updates services and provider reimbursement under the

Prepaid Mental Health Plan (PMHP), and includes coverage for psychological testing; The Pharmacy Services manual updates prior authorization requirements for quantity limits, new drugs, and provider-administered drugs to treat opioid use disorders; The Drug Criteria and Limits Policy updates the list of select generic medications available for 90-day supply. This document also updates on a quarterly basis, quantity limitations and prior authorization criteria, ICD codes, and the Over-the-Counter (OTC) Drug List. It also contains links to accountable care organizations (ACOs), Medicaid provider manuals, Medicaid Information Bulletins (MIBs), and reimbursement schedules on the Healthcare Common Procedure Coding System (HCPCS); The Autism Spectrum Disorder Related Services for EPSDT Eligible Individuals Utah Medicaid manual updates provider credentials, establishes medical necessity, updates the Table for Procedure Codes for Individual Treatment, updates the billing requirement for mental health evaluations and psychological testing performed for the purpose of diagnosing developmental disorders, updates service delivery specifications, prior authorization requests, and updates the referral period; The Medically Complex Children's Waiver Utah Medicaid manual includes information on rights to a fair hearing, incident reporting protocol, disenrollments, and billing and coding information for providers. It also clarifies dental plan coverage, background check requirements, and application processing.

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

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Updates Licensed Nurse Practitioner Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Medical Transportation Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Primary Care Network Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid, published by Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid, January 2018
- ◆ Updates Utah Home and Community-Based Services Waiver for Individuals with Physical Disabilities Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual, and the manual's attachment for Physical Therapy and Occupational Therapy Decision Tables, published by Division of Medicaid and Health Financing, January 2018

- ◆ Updates Office of Inspector General Administrative Hearings Procedures Manual, published by Office of Inspector General of Medicaid Services, January 2018
- ◆ Updates Autism Spectrum Disorder Related Services for EPSDT Eligible Individuals Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Vision Care Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Targeted Case Management for Individuals with Serious Mental Illness Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Speech-Language Pathology and Audiology Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Physician Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates School-Based Skills Development Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Indian Health Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Utah Community Supports Waiver for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Drug Criteria and Limits Policy, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Podiatric Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Utah Medicaid State Plan, published by Centers for Medicare and Medicaid Services, January 2018
- ◆ Updates Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual, with its attachments, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates CHEC Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, January 2018

- ◆ Updates Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Personal Care Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Utah Home and Community-Based Waiver Services Medicaid Autism Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Personal Care Utah Medicaid Provider Manual, January 2018; Utah Home and Community-Based Waiver Services for Individuals with an Acquired Brain Injury Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Non-Traditional Medicaid Plan Utah Medicaid Provider Manual with attachment, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Coverage and Reimbursement Code Look-up Tool, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Hospital Services Utah Medicaid Provider Manual with its attachments, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018

- ◆ Updates Rural Health Clinics and Federally Qualified Health Centers Services Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Utah Home and Community-Based Waiver Services for Individuals Age 65 or Older Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Medical Supplies and Durable Medical Equipment Utah Medicaid Provider Manual, and the manual's attachment for Donor Human Milk Request Form, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Section I: General Information Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates General Attachments (All Providers) for the Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Hospice Care Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Medically Complex Children's Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018

- ◆ Updates Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018
- ◆ Updates Personal Care Utah Medicaid Provider Manual, January 2018; Utah Home and Community-Based Waiver Services for Individuals with an Acquired Brain Injury Utah Medicaid Provider Manual, published by Division of Medicaid and Health Financing, January 2018

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, this rule's incorporation of ongoing Medicaid policy described in the provider manuals and Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to the Department or other state agencies.
- ◆ **LOCAL GOVERNMENTS:** There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, this rule's incorporation of ongoing Medicaid policy described in the provider manuals and Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to local governments.
- ◆ **SMALL BUSINESSES:** There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, this rule's incorporation of ongoing Medicaid policy described in the provider manuals and Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no budget impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, this rule's incorporation of ongoing Medicaid policy described in the provider manuals and Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to Medicaid members and to Medicaid providers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of the State Plan is within legislative budget allotments. Further, this rule's incorporation of ongoing Medicaid policy described in the provider manuals and Look-up Tool, and hearings procedures described in the OIG manual do not create costs or savings to a single Medicaid member or to a Medicaid provider.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed amendment will not result in a fiscal impact to businesses.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, by Internet E-mail at cdevashrayee@utah.gov or mail at PO Box 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/16/2018

THIS RULE MAY BECOME EFFECTIVE ON: 04/23/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

None of the 36,000 Medicaid providers and none of the 284,000 Medicaid members will see a fiscal impact because this change only fulfills the requirement to incorporate the State Plan by reference. Implementation of member services and provider reimbursement, as set forth in the State Plan, is already within legislative budget allotments.

The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.

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

R414-1. Utah Medicaid Program.

R414-1-5. Incorporations by Reference.

The Department incorporates the [~~October 1, 2017,~~ January 2018] versions of the following by reference:

- (1) Utah Medicaid State Plan, including any approved amendments, under Title XIX of the Social Security Act Medical Assistance Program;
- (2) Medical Supplies and Durable Medical Equipment Utah Medicaid Provider Manual, as applied in Rule R414-70, and the manual's attachment for Donor Human Milk Request Form;
- (3) Hospital Services Utah Medicaid Provider Manual with its attachments;
- (4) Home Health Agencies Utah Medicaid Provider Manual, and the manual's attachment for the Private Duty Nursing Acuity Grid;
- (5) Speech-Language Pathology and Audiology Services Utah Medicaid Provider Manual;
- (6) Hospice Care Utah Medicaid Provider Manual;
- (7) Long Term Care Services in Nursing Facilities Utah Medicaid Provider Manual with its attachments;
- (8) Personal Care Utah Medicaid Provider Manual;
- (9) Utah Home and Community-Based Waiver Services for Individuals Age 65 or Older Utah Medicaid Provider Manual;
- (10) Utah Home and Community-Based Waiver Services for Individuals with an Acquired Brain Injury Utah Medicaid Provider Manual;
- (11) Utah Community Supports Waiver for Individuals with Intellectual Disabilities or Other Related Conditions Utah Medicaid Provider Manual;

(12) Utah Home and Community-Based Services Waiver for Individuals with Physical Disabilities Utah Medicaid Provider Manual;

(13) Utah Home and Community-Based Waiver Services New Choices Waiver Utah Medicaid Provider Manual;

(14) Utah Home and Community-Based Services Waiver for Technology Dependent, Medically Fragile Individuals Utah Medicaid Provider Manual;

(15) Utah Home and Community-Based Waiver Services Medicaid Autism Waiver Utah Medicaid Provider Manual;

(16) Office of Inspector General Administrative Hearings Procedures Manual;

(17) Pharmacy Services Utah Medicaid Provider Manual with its attachments;

(18) Drug Criteria and Limits Policy:

(1[8]9) Coverage and Reimbursement Code Look-up Tool found at <http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php>;

([49]20) CHEC Services Utah Medicaid Provider Manual with its attachments;

(2[0]1) Dental, Oral Maxillofacial, and Orthodontia Services Utah Medicaid Provider Manual;

(2[1]2) General Attachments (All Providers) for the Utah Medicaid Provider Manual;

(2[2]3) Indian Health Utah Medicaid Provider Manual;

(2[3]4) Medical Transportation Utah Medicaid Provider Manual;

(2[4]5) Non-Traditional Medicaid Plan Utah Medicaid Provider Manual with attachment;

(2[5]6) Licensed Nurse Practitioner Utah Medicaid Provider Manual;

(2[6]7) Physical Therapy and Occupational Therapy Services Utah Medicaid Provider Manual, and the manual's attachment for Physical Therapy and Occupational Therapy Decision Tables;

(2[7]8) Physician Services Utah Medicaid Provider Manual with its attachments;

(2[8]9) Podiatric Services Utah Medicaid Provider Manual;

([29]30) Primary Care Network Utah Medicaid Provider Manual with its attachments;

(3[0]1) Rehabilitative Mental Health and Substance Use Disorder Services Utah Medicaid Provider Manual;

(3[1]2) Rural Health Clinics and Federally Qualified Health Centers Services Utah Medicaid Provider Manual;

(3[2]3) School-Based Skills Development Services Utah Medicaid Provider Manual;

(3[3]4) Section I: General Information Utah Medicaid Provider Manual;

(3[4]5) Targeted Case Management for Individuals with Serious Mental Illness Utah Medicaid Provider Manual;

(3[5]6) Targeted Case Management for Early Childhood (Ages 0-4) Utah Medicaid Provider Manual;

(3[6]7) Vision Care Services Utah Medicaid Provider Manual;

(3[7]8) Medically Complex Children's Waiver Utah Medicaid Provider Manual; and

(3[8]9) Autism Spectrum Disorder Related Services for EPSDT Eligible Individuals Utah Medicaid Provider Manual.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: ~~January 1, 2018~~

Notice of Continuation: February 15, 2017

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3; 26-34-2

Health, Health Care Financing, Coverage and Reimbursement Policy **R414-2A-7** Limitations

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42625

FILED: 02/27/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to include all accreditation organizations that certify sleep disorder centers in accordance with the Centers for Medicare and Medicaid Services (CMS).

SUMMARY OF THE RULE OR CHANGE: This amendment specifies that coverage for sleep studies is available only through the three accreditation organizations listed in the text. This revised list allows sleep centers more options for accreditation and improves access to sleep study services for Medicaid members.

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

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no impact to the state budget because funding and accreditation for sleep studies is within budget allotments set forth by the Legislature.

♦ **LOCAL GOVERNMENTS:** There is no impact to local governments because they do not fund inpatient hospital services for Medicaid members.

♦ **SMALL BUSINESSES:** Small businesses will see more revenue through this revised list of accreditation organizations. Nevertheless, there are not sufficient nor cost effective data available to determine what those increases may be.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Medicaid providers and accreditation organizations will see more revenue through this revised list. Nevertheless, there are not sufficient nor cost effective data available to determine what those increases may be. Medicaid members will likewise see an increased, yet undetermined, amount of out-of-pocket savings through improved access to services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because this change can only result in increased revenue and out-of-pocket savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses will see more revenue through this revised list of accreditation organizations. Nevertheless, there are not sufficient nor cost effective data available to determine what those increases may be.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, by Internet E-mail at cdevashrayee@utah.gov or mail at PO Box 143102, Salt Lake City, UT 84114-3102
INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/16/2018

THIS RULE MAY BECOME EFFECTIVE ON: 04/23/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Small Businesses	Undetermined business revenue	Undetermined business revenue	Undetermined business revenue
Non-Small Businesses	Undetermined business revenue	Undetermined business revenue	Undetermined business revenue
Other Persons	Undetermined business revenue	Undetermined business revenue	Undetermined business revenue
Total Fiscal Benefits:	Undetermined business revenue	Undetermined business revenue	Undetermined business revenue
Net Fiscal Benefits:	Undetermined business revenue	Undetermined business revenue	Undetermined business revenue

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

Businesses will see more revenue through the revised list of sleep accreditation organizations that now includes three organizations. Nevertheless, there are not sufficient nor cost effective data available to determine what those increases may be.

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0

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

R414-2A. Inpatient Hospital Services.

R414-2A-7. Limitations.

Inpatient hospital care is limited to medical treatment of symptoms that lead to medical stabilization of the member. This medical stabilization care is irrespective of any underlying psychiatric diagnosis.

(1) Detoxification for a substance use disorder in a hospital is limited to medical detoxification for acute symptoms of withdrawal when the member is in danger of experiencing severe or life-threatening withdrawal. The Department does not cover any lesser level of detoxification in an inpatient hospital.

(2) Abortion procedures require prior authorization. Refer to Rule R414-1B.

(3) Sterilization and hysterectomy procedures require prior authorization and must meet the requirements of 42 CFR 441, Subpart F.

(4) Organ transplant services are governed by Rule R414-10A.

(5) Take-home supplies, dressings, non-rental durable medical equipment, and drugs are reimbursed as part of payment under the DRG.

~~(6) [Sleep studies are available only in a sleep disorder center accredited by the American Academy of Sleep Medicine.] Coverage of sleep studies requires sleep center accreditation through one of the following nationally recognized accreditation organizations:~~

- ~~(a) American Academy of Sleep Medicine (AASM);
(b) Accreditation Commission for Health Care (ACHC);~~

or

- ~~(c) The Joint Commission (TJC).~~

~~(7) Hyperbaric oxygen therapy is limited to service in a facility in which the hyperbaric unit is accredited by the Undersea and Hyperbaric Medical Society. Hyperbaric oxygen therapy is therapy that places the member in an enclosed pressure chamber for medical treatment.~~

~~(8) Medicaid does not cover inpatient services solely for pain management. Pain management is adjunct to other Medicaid services.~~

~~(9) Inpatient rehabilitation services require prior authorization.~~

~~(10) Observation services are limited to cases where observation and evaluation is required to establish a diagnosis and determine the appropriateness of an inpatient admission or discharge. Observation is used to monitor the member's condition, complete diagnostic testing to establish a definitive diagnosis and formulate the treatment plan.~~

~~(a) Medicaid covers observation services with a physician's written order that outlines specific medically necessary reasons for the service, such as the member requires more evaluation to determine the severity of illness (e.g. laboratory, imaging, other diagnostic test) and an order to continue monitoring for clinical signs and symptoms to determine improving or declining health status.~~

~~(b) Outpatient procedures include uneventful recovery period.~~

~~(i) Observation is used to monitor complications of outpatient procedures beyond uneventful recovery period.~~

~~(c) Medicaid does not cover observation services for convenience of the hospital, member or family, or when awaiting transfer to another facility.~~

~~(d) When an ordered hospital inpatient admission improves to the point of discharge with a stay less than 24 hours, the admission is covered as inpatient when documentation supports the medical necessity.~~

~~(e) Inpatient admissions solely for observation or diagnostic evaluation do not qualify for reimbursement under the DRG system.~~

~~(11) Medicaid does not cover admission solely for the treatment of eating disorders.~~

~~(12) Medicaid does not cover non-physician psychosocial counseling outside of the DRG.~~

~~(13) An individual (undocumented immigrant) who does not meet United States residency requirements may only receive emergency services, including emergency labor and delivery, to treat an emergency medical condition.~~

~~(a) Medicaid does not cover prenatal and post-partum services for undocumented immigrants.~~

~~(b) Medicaid does not cover prescriptions for a member who is eligible to receive emergency services only.~~

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: [~~December 12, 2017~~]2018

Notice of Continuation: September 15, 2017

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3; 26-18-3.5

Health, Health Care Financing, Coverage and Reimbursement Policy **R414-60** Medicaid Policy for Pharmacy Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42626

FILED: 02/27/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to implement an exception that allows Medicaid to cover long-acting injectable psychotic medications for up to a 90-day supply per dispensing.

SUMMARY OF THE RULE OR CHANGE: This amendment allows Medicaid to cover long-acting injectable psychotic medications for up to a 90-day supply per dispensing. This coverage also extends to the treatment of opioid use disorders.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is an annual savings of about \$2,200,000 in supplemental rebates that will become available to the Department of Health.

◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they do not fund pharmacy services under the Medicaid program.

◆ **SMALL BUSINESSES:** Improved access to these medications will result in increased revenue to small businesses. Nevertheless, there are not sufficient nor cost effective data available to determine what those increases may be.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Drug companies will pay about \$2,200,000 in supplemental rebates to the state. Nevertheless, these companies will see net revenue over time to offset this cost. Improved access to these medications will also result in increased revenue to pharmacies and providers, but there is no data available to

know what those increases may be. Medicaid members will likewise see an increased, yet undetermined, amount of out-of-pocket savings through improved access.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A single drug company, required to pay supplemental rebates to the state, may see a portion of \$2,200,000 in annual cost. Nevertheless, this cost will be offset over time by net revenue.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Drug companies will pay about \$2,200,000 in supplemental rebates to the State. Nevertheless, these companies will see net revenue over time to offset this cost.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, by Internet E-mail at cdevashrayee@utah.gov or mail at PO Box 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/16/2018

THIS RULE MAY BECOME EFFECTIVE ON: 04/23/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$2,200,000	\$2,200,000	\$2,200,000
Other Persons	\$0	\$0	\$0
Total Fiscal Costs:	\$2,200,000	\$2,200,000	\$2,200,000

Fiscal Benefits			
State Government	\$2,200,000 annual savings	\$2,200,000 annual savings	\$2,200,000 annual savings
Local Government	\$0	\$0	\$0
Small Businesses	Undetermined revenue	Undetermined revenue	Undetermined revenue
Non-Small Businesses	Net revenue over time	Net revenue over time	Net revenue over time
Other Persons	Undetermined savings and revenue	Undetermined savings and revenue	Undetermined savings and revenue
Total Fiscal Benefits:	Undetermined savings and revenue	Undetermined savings and revenue	Undetermined savings and revenue
Net Fiscal Benefits:	Net savings and revenue	Net savings and revenue	Net savings and revenue

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses
 Two drug companies will pay about \$2,200,000 in supplemental rebates to the State. Nevertheless, these companies will see net revenue over time to offset this cost.

The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.
R414-60. Medicaid Policy for Pharmacy Program.
R414-60-5. Limitations.

(1) Limitations may be placed on drugs in accordance with 42 U.S.C. 1396r-8 or in consultation with the Drug Utilization Review (DUR) Board. Limitations are included in the Pharmacy Services Provider Manual and attachments, incorporated by reference in Section R414-1-5, and may include:

- (a) Quantity limits or cumulative limits for a drug or drug class for a specified period of time;
- (b) Therapeutic duplication limits may be placed on drugs within the same or similar therapeutic categories;
- (c) Step therapy, including documentation of therapeutic failure with one drug before another drug may be used; or

(d) Prior authorization.

(2) A covered outpatient drug that requires prior authorization may be dispensed for up to a 72-hour supply without obtaining prior authorization during a medical emergency.

(3) Drugs listed as non-preferred on the Preferred Drug List may require prior authorization as authorized by Section 26-18-2.4.

(4) Drugs may be restricted and are reimbursable only when dispensed by an individual pharmacy or pharmacies.

(5) Medicaid does not cover drugs not eligible for Federal Medical Assistance Percentages funds.

(6) Medicaid does not cover outpatient drugs included in the Medicare Prescription Drug Benefit-Part D for full-benefit dual eligible beneficiaries.

(7) Drugs provided to clients during inpatient hospital stays are not covered as an outpatient pharmacy benefit nor separately payable from the Medicaid payment for the inpatient hospital services.

(8) Medicaid covers only the following prescription cough and cold preparations meeting the definition of a covered outpatient drug:

(a) Guaiifenesin with Dextromethorphan (DM) 600mg/30mg tablets;

(b) Guaiifenesin with Hydrocodone 100mg/5mL liquid;

(c) Promethazine with Codeine liquid;

(d) Guaiifenesin with Codeine 100mg/10mg/5mL liquid;

(e) Carbinoxamine with Pseudoephedrine 1mg/15mg/5mL liquid; and

(f) Carbinoxamine/Pseudoephedrine/DM 15mg/1mg/4mg/5mL liquid.

(9) Medicaid will pay for no more than a one-month supply of a covered outpatient drug per dispensing, except for the following:

(a) Medications included on the Utah Medicaid [~~Generic Medication~~]Three-Month Supply Medication List attachment to the Pharmacy Services Provider Manual may be covered for up to a three-month supply per dispensing. Medicaid clients eligible for Primary Care Network services under Rule R414-100 are not eligible to receive more than a one-month supply per dispensing.

(b) Prenatal vitamins for pregnant women, multiple vitamins with or without fluoride for children through five years of age, and fluoride supplements may be covered for up to a 90-day supply per dispensing.

(c) Medicaid may cover contraceptives for up to a three-month supply per dispensing.

(d) Medicaid may cover long-acting injectable antipsychotic drugs in accordance with Section R414-60-12 for up to a 90-day supply per dispensing.

(10) Medicaid will pay for a prescription refill only when 80% of the previous prescription has been exhausted, with the exception of narcotic analgesics. Medicaid will pay for a prescription refill for narcotic analgesics after 100% of the previous prescription has been exhausted.

(11) Medicaid does not cover the following drugs:

(a) Drugs not eligible for Federal Medical Assistance Percentages funds;

(b) Drugs for anorexia, weight loss or weight gain;

(c) Drugs to promote fertility;

(d) Drugs for the treatment of sexual or erectile dysfunction;

(e) Drugs for cosmetic purposes or hair growth;

(f) Vitamins; except for prenatal vitamins for pregnant women, vitamin drops for children through five years of age, and fluoride supplements;

(g) Over-the-counter drugs not included in the Utah Medicaid Over-the-Counter Drug List attachment to the Pharmacy Services Provider Manual;

(h) Drugs for which the manufacturer requires, as a condition of sale, that associated tests and monitoring services are purchased exclusively from the manufacturer or its designee;

(i) Drugs given by a hospital to a patient at discharge;

(j) Breast milk, breast milk substitutes, baby food, or medical foods, except for prescription metabolic products for congenital errors of metabolism;

(k) Drugs available only through single-source distribution programs, unless the distributor is enrolled with Medicaid as a pharmacy provider.

(12) Medicaid may only cover hemophilia clotting factor when it is dispensed by a single-contracted provider in accordance with the Utah Medicaid State Plan.

R414-60-12. Provider-Administered Long-Acting Injectable Antipsychotic Drugs and Drugs for the Treatment of Opioid Use Disorders.

A pharmacy may bill Medicaid for any covered, provider-administered drug not directly dispensed to a patient for a long-acting injectable antipsychotic drug or for the treatment of an opioid use disorder. The pharmacy may only release the drug to the administering provider or the provider's staff for treatment.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: [~~January 1~~], 2018

Notice of Continuation: April 28, 2017

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

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-302-6
Residents of Institutions**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 42627

FILED: 02/27/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to comply with the provisions of H.B. 437, passed during the 2016 General Session, which require the Department of Health to expand Medicaid coverage to individuals who reside in certain institutions for mental disease (IMDs).

SUMMARY OF THE RULE OR CHANGE: This amendment expands coverage to individuals who reside in an IMD licensed as a Substance Use Disorder (SUD) residential treatment program.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 CFR 435.1009 and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is an annual cost of about \$3,000,000 to the General Fund and about \$7,000,000 in federal funds to treat individuals who reside in an IMD licensed for SUD treatment purposes.
- ◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they do not fund IMDs under the Medicaid program.
- ◆ **SMALL BUSINESSES:** Institutions for SUD treatment may see a portion of annual revenue that totals \$10,000,000 based on 241 beds available to treat residents under expanded Medicaid coverage.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Medicaid providers in institutions for SUD treatment may see a portion of annual revenue that totals \$10,000,000 based on 241 beds available to treat residents under expanded Medicaid coverage. Residents who qualify for treatment coverage will also see a portion of \$10,000,000 in out-of-pocket savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a single institution for SUD treatment will only see potential revenue and a resident who qualifies for SUD treatment will only see out-of-pocket savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Institutions for SUD treatment may see a portion of annual revenue that totals \$10,000,000 based on 241 beds available to treat residents under expanded Medicaid coverage.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, by Internet E-mail at cdevashrayee@utah.gov or mail at PO Box 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/16/2018

THIS RULE MAY BECOME EFFECTIVE ON: 04/23/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$10,000,000	\$10,000,000	\$10,000,000
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$10,000,000	\$10,000,000	\$10,000,000
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	A portion of \$10,000,000	A portion of 10,000,000	A portion of 10,000,000
Non-Small Businesses	A portion of \$10,000,000	A portion of 10,000,000	A portion of 10,000,000
Other Persons	A portion of \$10,000,000	A portion of 10,000,000	A portion of 10,000,000
Total Fiscal Benefits:	\$10,000,000	\$10,000,000	\$10,000,000
Net Fiscal Benefits:	Portions of \$10,000,000	Portions of 10,000,000	Portions of 10,000,000

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

Institutions for Substance Use Disorder (SUD) treatment may see a portion of annual revenue that totals

\$10,000,000, based on 241 beds available to treat residents under expanded Medicaid coverage.

The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.

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

R414-302. Eligibility Requirements.

R414-302-6. Residents of Institutions.

(1) ~~[The Department provides Medicaid coverage to individuals who are residents of institutions subject to the limitations in 42 CFR 435.1009 and 435.1010 (October 1, 2015), which the Department adopts and incorporates by reference]~~For purposes of institutions, the definitions in 42 CFR 435.1010 apply.

(2) An individual who resides in a halfway house may receive Medicaid coverage if the halfway house meets the following criteria:

(a) The halfway house allows the individual to work outside the facility;

(b) The halfway house allows the individual to use community facilities at will, such as libraries, grocery stores, recreation areas, or schools; and

(c) The halfway house allows the individual to seek health care treatment in the community to the same extent as other Medicaid enrollees.

(3) The Department does not consider an individual who resides in a temporary shelter for a limited period of time as a resident of an institution.

(4) ~~[For individuals under 22 years of age who become residents of an IMD before reaching 21 years of age, the Department limits Medicaid eligibility to individuals residing in the Utah State Hospital.]~~Individuals who are inmates of public institutions are not eligible for Medicaid coverage.

(5) Individuals who reside in an institution for mental disease (IMD) are not eligible for Medicaid coverage with the following exceptions:

(a) Individuals 65 years of age or older;

(b) Individuals under 22 years of age who receive inpatient psychiatric services as described in 42 CFR 440.160; and

(c) Individuals who reside in an IMD that is licensed as a Substance Use Disorder (SUD) residential treatment program and are receiving treatment for an SUD.

KEY: state residency, citizenship, third party liability, Medicaid Date of Enactment or Last Substantive Amendment: [February 15, 2017]2018

Notice of Continuation: January 8, 2018

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

Health, Health Care Financing, Coverage and Reimbursement Policy **R414-308-3** Application and Signature

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42628

FILED: 02/27/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to comply with the provisions of H.B. 437, passed during the 2016 General Session, which require the Department of Health to expand Medicaid coverage for adults without dependent children.

SUMMARY OF THE RULE OR CHANGE: This amendment expands coverage for a new eligibility group of adults without dependent children. These individuals are required to meet basic Medicaid eligibility criteria, and to meet specific criteria for one of the three following Targeted Adult Medicaid groups: "Chronically Homeless"; "Involved in the Justice System"; or "Needing Substance Use or Mental Health Treatment".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 CFR 435.907 and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is an annual cost of about \$26,800,000 to the General Fund and about \$63,000,000 in federal funds as a result of this amendment.

♦ **LOCAL GOVERNMENTS:** There is no impact to local governments because they do not fund specific programs for the Medicaid adult population.

♦ **SMALL BUSINESSES:** Small businesses in the fields of social services, mental health, and addiction recovery may see a portion of annual revenue that totals \$100,000,000 based on member eligibility and participation in the "Needing Substance Use or Mental Health Treatment" group.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Utah Hospital Association will incur an annual cost of about \$10,200,000 to share in the implementation of these new programs. On the other hand, Medicaid providers in the fields of social services, mental health, and addiction recovery may see a portion of annual revenue that totals \$100,000,000 based on member eligibility and participation in the "Needing Substance Use or Mental Health Treatment" group. As more individuals become eligible for the "Chronically Homeless" coverage group, homeless shelters will see a decrease in operating costs. Likewise, the public will see a decrease in taxes needed to support jails, prison, and the court system as more individuals become eligible for the "Involved in the Justice System" coverage group. All of the aforementioned groups will see a portion of \$100,000,000 in out-of-pocket savings as they are able to access these new services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because an individual business or provider will only see potential revenue and an individual who

qualifies for one of the coverage groups will only see out-of-pocket savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses in the fields of social services, mental health, and addiction recovery will see a portion of annual revenue that totals \$100,000,000 based on member eligibility and participation in the "Needing Substance Use or Mental Health Treatment" group.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, by Internet E-mail at cdevashrayee@utah.gov or mail at PO Box 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/16/2018

THIS RULE MAY BECOME EFFECTIVE ON: 04/23/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Small Businesses	A portion of \$100,000,000	A portion of 100,000,000	A portion of 100,000,000
Non-Small Businesses	A portion of \$100,000,000	A portion of 100,000,000	A portion of 100,000,000
Other Persons	A portion of \$100,000,000	A portion of 100,000,000	A portion of 100,000,000
Total Fiscal Benefits:	\$100,000,000	\$100,000,000	\$100,000,000
Net Fiscal Benefits:	Portions of \$100,000,000	Portions of 100,000,000	Portions of 100,000,000

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

The Utah Hospital Association will incur an annual cost of about \$10,200,000 to share in the implementation of these new programs. On the other hand, about 2,500 Medicaid providers in the fields of social services, mental health, and addiction recovery may see a portion of annual revenue that totals \$100,000,000 based on member eligibility and participation in the "Needing Substance Use or Mental Health Treatment" group. As more individuals become eligible for the "Chronically Homeless" coverage group, all 24 of Utah's homeless shelters will see a decrease in operating costs. Likewise, the public will see a decrease in taxes needed to support jails, prison, and the court system as more individuals become eligible for the "Involved in the Justice System" coverage group. Medicaid members who qualify for the aforementioned programs will share a portion of \$100,000,000 in out-of-pocket savings as they are able to access new services.

The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$100,000,000	\$100,000,000	\$100,000,000
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$10,200,000	\$10,200,000	\$10,200,000
Total Fiscal Costs:	\$110,200,000	\$110,200,000	\$110,200,000
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0

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

R414-308. Application, Eligibility Determinations and Improper Medical Assistance.

R414-308-3. Application and Signature.

(1) The Department ~~[adopts and incorporates by reference]~~ shall comply with the requirements in 42 CFR 435.907, ~~[October 1, 2012 ed.]~~ concerning the application ~~[requirements]~~ for medical assistance ~~[programs]~~.

(a) The applicant or authorized representative must complete and sign the application under penalty of perjury. If an applicant cannot write, the applicant must make his mark on the application form and have at least one witness to the signature.

(b) A representative may apply on behalf of an individual. A representative may be a legal guardian, a person holding a power of attorney, a representative payee or other responsible person acting on behalf of the individual. In this case, the eligibility agency may send notices, requests and forms to both the individual and the individual's representative, or to just the individual's representative. The eligibility

agency may assign someone to act as the authorized representative when the individual requires help to apply and cannot appoint a representative.

(c) If the Division of Child and Family Services (DCFS) has custody of a child and the child is placed in foster care, DCFS completes the application. DCFS determines eligibility for the child pursuant to a written agreement with the Department. DCFS also determines eligibility for children placed under a subsidized adoption agreement. The Department does not require an application for Title IV-E eligible children.

(2) The application date for medical assistance is the date that the eligibility agency receives the application during normal business hours on a week day that does not include Saturday, Sunday or a state holiday except as described below:

(a) When the individual applies through the federally facilitated marketplace (FFM) and the application is transferred from the FFM for a Medicaid eligibility determination, the date of application is the date the individual applies through the FFM.

(b) If the application is delivered to the eligibility agency after the close of business, the date of application is the next business day;

(c) If the applicant delivers the application to an outreach location during normal business hours, the date of application is that business day when outreach staff is available to receive the application. If the applicant delivers the application to an outreach location on a non-business day or after normal business hours, the date of application is the last business day that a staff person from the eligibility agency was available at the outreach location to receive or pick up the application;

(d) When the eligibility agency receives application data transmitted from the Social Security Administration (SSA) pursuant to the requirements of 42 U.S.C. Sec. 1320b-14(c), the eligibility agency shall use the date that the individual submits the application for the low-income subsidy to the SSA as the application date for Medicare cost sharing programs. The application processing period for the transmitted data begins on the date that the eligibility agency receives the transmitted data. The transmitted data meets the signature requirements for applications for Medicare cost sharing programs;

(e) If an application is filed through the "myCase" system, the date of application is the date the application is submitted to the eligibility agency online.

(3) The eligibility agency shall accept a signed application that an applicant sends by facsimile as a valid application.

(4) If an applicant submits an unsigned or incomplete application form to the eligibility agency, the eligibility agency shall notify the applicant that he must sign and complete the application no later than the last day of the application processing period. The eligibility agency shall send a signature page to the applicant and give the applicant at least ten days to sign and return the signature page. When the application is incomplete, the eligibility agency shall notify the applicant of the need to complete the application and offer ways to complete the application.

(a) The date of application for an incomplete or unsigned application form is the date that the eligibility agency receives the application if the agency receives a signed signature page and completed application within the application processing period.

(b) If the eligibility agency does not receive a signed signature page and completed application form within the application

processing period, the application is void and the eligibility agency shall send a denial notice to the applicant.

(c) If the eligibility agency receives a signed signature page and completed application within 30 calendar days after the notice of denial date, the date of receipt is the new application date and the provisions of Subsection R414-308-3(2) apply.

(d) If the eligibility agency receives a signed signature page and completed application more than 30 calendar days after it sends the denial notice, the applicant must reapply by completing and submitting a new application form. The new application date is determined in accordance with this rule.

(5) The eligibility agency treats the following situations as a new application without requiring a new application form. The application date is the day that the eligibility agency receives the request or verification from the recipient. The effective date of eligibility for these situations depends on the rules for the specific program:

(a) A household with an open medical assistance case asks to add a new household member by contacting the eligibility agency;

(b) The eligibility agency ends medical assistance when the recipient fails to return requested verification, and the recipient provides all requested verification to the eligibility agency before the end of the calendar month that follows the closure date. The eligibility agency waives the requirement for the open enrollment period during that calendar month for programs subject to open enrollment;

(c) A medical assistance program other than PCN ends due to an incomplete review, and the recipient responds to the review request within the three calendar months that follow the closure date. The provisions of Section R414-310-14 apply to recertification for PCN enrollment;

(d) Except for PCN, Targeted Adult Medicaid and UPP that are subject to open enrollment periods, the eligibility agency denies an application when the applicant fails to provide all requested verification, but provides all requested verification within 30 calendar days of the denial notice date. The new application date is the date that the eligibility agency receives all requested verification and the retroactive period is based on that date. The eligibility agency does not act if it receives verification more than 30 calendar days after it denies the application. The recipient must complete a new application to reapply for medical assistance;

(e) For PCN, Targeted Adult Medicaid and UPP applicants, the eligibility agency denies an application when the applicant fails to provide all requested verification, but provides all requested verification within 30 calendar days of the denial notice date and the eligibility agency has not stopped the open enrollment period. If the eligibility agency has stopped enrollment, the applicant must wait for an open enrollment period to reapply.

~~[(6) The eligibility agency shall use the 2013 eligibility criteria in effect from October 1, 2013, through December 31, 2013, when considering applications that it receives during that time period. The agency may also use the three-month retroactive period.]~~

[[7]6] For an individual who applies for and is found ineligible for Medicaid from October 1, 2013, and December 31, 2013, the eligibility agency shall redetermine eligibility under the policies that become effective January 1, 2014, using the modified adjusted gross income (MAGI)-based methodology without requiring a new application.

(a) Medicaid eligibility may begin no earlier than January 1, 2014, for an individual who becomes eligible using the MAGI-based methodology;

(b) For applications received on or after January 1, 2014, the eligibility agency shall apply the MAGI-based methodology first to determine Medicaid eligibility.

(c) The eligibility agency shall determine eligibility for other Medicaid programs that do not use MAGI-based methodology if the individual meets the categorical requirements of these programs, which may include a medically needy eligibility group for individuals found ineligible using the MAGI-based methodology.

([8]7) If a medical assistance case closes for one or more calendar months, the recipient must complete a new application form to reapply, except as defined in Subsection R414-308-6(7).

([9]8) An individual determined eligible for a presumptive eligibility period must file an application for medical assistance with the eligibility agency in accordance with the requirements of Sections 1920, 1920A and 1920B of the Social Security Act.

([10]2) The eligibility agency shall process low-income subsidy application data transmitted from SSA in accordance with 42 U.S.C. Sec. 1320b-14(c) as an application for Medicare cost sharing programs. The eligibility agency shall take appropriate steps to gather the required information and verification from the applicant to determine the applicant's eligibility.

(a) Data transmitted from SSA is not an application for Medicaid.

(b) An individual who wants to apply for Medicaid when contacted for information to process the application for Medicare cost sharing programs must complete and sign a Department-approved application form for medical assistance. The date of application for Medicaid is the date that the eligibility agency receives the application for Medicaid.

KEY: public assistance programs, applications, eligibility, Medicaid

Date of Enactment or Last Substantive Amendment: [~~March 28, 2017~~2018]

Notice of Continuation: January 8, 2018

Authorizing, and Implemented or Interpreted Law: 26-18

Health, Health Care Financing, Coverage and Reimbursement Policy

R414-311

Targeted Adult Medicaid

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 42629

FILED: 02/27/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to comply with the provisions of H.B. 437, passed during the 2016 General

Session, which require the Department of Health to expand Medicaid coverage for adults without dependent children.

SUMMARY OF THE RULE OR CHANGE: This new rule expands coverage for a new eligibility group of adults without dependent children. These individuals are required to meet basic Medicaid eligibility criteria, and to meet specific criteria for one of the three following Targeted Adult Medicaid groups: "Chronically Homeless"; "Involved in the Justice System"; or "Needing Substance Use or Mental Health Treatment".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-18-3 and Subsection 1115(f) of the Social Security Act

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is an annual cost of about \$26,800,000 to the General Fund and about \$63,000,000 in federal funds as a result of this rule.

◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they do not fund specific programs for the Medicaid adult population.

◆ **SMALL BUSINESSES:** Small businesses in the fields of social services, mental health, and addiction recovery may see a portion of annual revenue that totals \$100,000,000 based on member eligibility and participation in the "Needing Substance Use or Mental Health Treatment" group.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Utah Hospital Association will incur an annual cost of about \$10,200,000 to share in the implementation of these new programs. On the other hand, Medicaid providers in the fields of social services, mental health, and addiction recovery may see a portion of annual revenue that totals \$100,000,000 based on member eligibility and participation in the "Needing Substance Use or Mental Health Treatment" group. As more individuals become eligible for the "Chronically Homeless" coverage group, homeless shelters will see a decrease in operating costs. Likewise, the public will see a decrease in taxes needed to support jails, prison, and the court system as more individuals become eligible for the "Involved in the Justice System" coverage group. All of the aforementioned groups will see a portion of \$100,000,000 in out-of-pocket savings as they are able to access these new services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because an individual business or provider will only see potential revenue, and an individual who qualifies for one of the coverage groups will only see out-of-pocket savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses in the fields of social services, mental health, and addiction recovery will see a portion of annual revenue that totals \$100,000,000 based on member eligibility and participation in the "Needing Substance Use or Mental Health Treatment" group.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, by Internet E-mail at cdevashrayee@utah.gov or mail at PO Box 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/16/2018

THIS RULE MAY BECOME EFFECTIVE ON: 04/23/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Net Benefits:	Fiscal	Portions of \$100,000,000	Portions of 100,000,000	Portions of 100,000,000

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

The Utah Hospital Association will incur an annual cost of about \$10,200,000 to share in the implementation of these new programs. On the other hand, about 2,500 Medicaid providers in the fields of social services, mental health, and addiction recovery may see a portion of annual revenue that totals \$100,000,000 based on member eligibility and participation in the "Needing Substance Use or Mental Health Treatment" group. As more individuals become eligible for the "Chronically Homeless" coverage group, all 24 of Utah's homeless shelters will see a decrease in operating costs. Likewise, the public will see a decrease in taxes needed to support jails, prison, and the court system as more individuals become eligible for the "Involved in the Justice System" coverage group. Medicaid members who qualify for the aforementioned programs will share a portion of \$100,000,000 in out-of-pocket savings as they are able to access new services.

The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$100,000,000	\$100,000,000	\$100,000,000
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$10,200,000	\$10,200,000	\$10,200,000
Total Fiscal Costs:	\$110,200,000	\$110,200,000	\$110,200,000
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	A portion of \$100,000,000	A portion of 100,000,000	A portion of 100,000,000
Non-Small Businesses	A portion of \$100,000,000	A portion of 100,000,000	A portion of 100,000,000
Other Persons	A portion of \$100,000,000	A portion of 100,000,000	A portion of 100,000,000
Total Fiscal Benefits:	\$100,000,000	\$100,000,000	\$100,000,000

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

R414-311. Targeted Adult Medicaid.

R414-311-1. Introduction and Authority.

(1) This rule is authorized by Sections 26-1-5 and 26-18-3 and allowed under Subsection 1115(f) of the Social Security Act.

(2) This rule establishes eligibility requirements for enrollment under the 1115 Demonstration Waiver for Adults without Dependent Children, also known as the Targeted Adult Medicaid program.

R414-311-2. Definitions.

The definitions in Rules R414-1 and R414-301 apply to this rule. In addition, the following definitions apply throughout this rule:

(1) "Chronically Homeless Individual" means an individual who has a substance use disorder, serious mental illness, developmental disability, post-traumatic stress disorder, cognitive impairments resulting from a brain injury, or chronic illness or disability; and

(a) is living or residing for at least 12 months, or on at least four separate occasions that amount to at least 12 months in the last three years, in a place not meant for human habitation, in a safe haven, or in an emergency shelter; or

(b) is living in supportive housing and has previously met the criteria established in Subsection R414-311-2(2)(a).

(2) "Dependent Child" means a child who is under 19 years of age and required to be included in the Targeted Adult Medicaid household size.

_____ (3) "Individual Needing Treatment" means an individual who:

_____ (a) is receiving General Assistance from the Department of Workforce Services and has been diagnosed with a substance use or mental health disorder;

_____ (b) was discharged from the Utah State Hospital and was admitted due to a civil commitment; or

_____ (c) is living or residing for at least 6 months within a 12 month period in a place not meant for human habitation, in a safe haven, or an emergency shelter, and has a substance use or serious mental health disorder.

_____ (4) "Justice Involved Individuals" means an individual who:

_____ (a) has complied with and substantially completed a substance use disorder treatment program while incarcerated in jail or prison; or

_____ (b) was discharged from the Utah State Hospital and was admitted to the civil unit in connection with a criminal charge, or to the forensic unit due to a criminal offense, with which the individual was charged or convicted; or

_____ (c) is involved with a drug or mental health court.

R414-311-3. General Provisions.

_____ (1) The provisions in Rule R414-301 apply to all applicants and enrollees, except that applicants and enrollees are required to report only the following changes in circumstances:

_____ (a) The individual moves out of state; or

_____ (b) The individual enters a public institution or an institution for mental disease.

R414-311-4. General Eligibility Requirements.

_____ Unless otherwise stated, the provisions in Rule R414-302 and Section R414-306-4 apply to applicants and enrollees.

_____ (1) The following individuals are not eligible for Targeted Adult Medicaid:

_____ (a) Individuals who do not meet the coverage group criteria of being chronically homeless, justice involved, or needing treatment as defined in Section R414-311-2;

_____ (b) Individuals who have a dependent child under 19 years old; or

_____ (c) Individuals eligible for a Medicaid program without a spenddown.

_____ (2) An individual must be at least 19 years old and not yet 65 years old to enroll in Targeted Adult Medicaid.

_____ (a) The month in which an individual turns 19 years old is the first month in which the individual may enroll in Targeted Adult Medicaid.

_____ (b) An individual may only enroll in Targeted Adult Medicaid through the month in which the individual turns 65 years old.

_____ (3) The eligibility agency only enrolls applicants during an open enrollment period. The eligibility agency may limit the number it enrolls and may stop enrollment at any time. The open enrollment period may be limited to a coverage group or a subgroup within the coverage group.

_____ (4) The eligibility agency shall waive the open enrollment requirement for the following situations:

_____ (a) The individual who was previously on Targeted Adult Medicaid, and is moving from another Medicaid program back to

Targeted Adult Medicaid, is otherwise eligible, and there is no break in coverage between the medical programs;

_____ (b) The individual is no longer eligible for PCN, is otherwise eligible, and there is no break in coverage between the two medical programs; or

_____ (c) The enrollee completes a review within three months of case closure as outlined in Section R414-308-6.

_____ (5) A resource test is not required.

R414-311-5. Application, Eligibility Reviews and Improper Medical Assistance.

_____ (1) Unless otherwise stated, the provisions of Rule R414-308 apply to applicants and enrollees.

_____ (2) Subject to the provisions of Subsection R414-311-5(3), an individual who is determined eligible shall receive 12 months of coverage that begins with the first month of enrollment.

_____ (3) Coverage for Targeted Adult Medicaid may end before the end of the 12-month certification period if the individual:

_____ (a) turns 65 years old;

_____ (b) moves out of state;

_____ (c) becomes eligible for another Medicaid program;

_____ (d) enters a public institution or an institution for mental disease, except as described in Section R414-302-6;

_____ (e) is convicted of fraud; or

_____ (f) leaves the household.

_____ (4) An individual who leaves prison, jail or the Utah State Hospital must submit an application within 60 days of release or discharge.

_____ (5) An enrollee must verify at each review that he meets the criteria of a coverage group as defined in Section R414-311-2. An enrollee who no longer meets criteria of a coverage group is no longer eligible for Targeted Adult Medicaid.

R414-311-6. Household Composition and Income Provisions.

_____ (1) The eligibility agency shall use the provisions of Section R414-304-5 to determine household composition and countable income.

_____ (2) Section R414-304-12 applies to the budgeting of income through the Modified Adjusted Gross Income (MAGI) methodology.

_____ (3) For an individual to be eligible to enroll in Targeted Adult Medicaid, the individual must have zero countable income.

**KEY: Medicaid, Targeted Adult Medicaid, eligibility
Date of Enactment or Last Substantive Amendment: 2018
Authorizing, and Implemented or Interpreted Law: 26-18**

Human Services, Administration **R495-885** Employee Background Screenings

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42630

FILED: 02/27/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change will align this rule with the preexisting background screening Rule R501-14 and Section 62A-2-120 and addresses the Department of Human Services (DHS) Executive Director's Office (EDO) responsibility for employee background screenings.

SUMMARY OF THE RULE OR CHANGE: This change is made in regard to the EDO's need to mandate Executive Director involvement (instead of allowing it to be voluntary) on the determination of the disposition on existing employees' background screening results. It also removes the Office of Public Guardian from mandated committee attendance, and reduces quorum members from five voting members to four voting members.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-1-120 and Section 62A-2-118

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This amendment will not affect DHS's ongoing costs or revenues.
- ◆ **LOCAL GOVERNMENTS:** Local governments are not affected by this rule change. Therefore, this rule has no impact on local governments.
- ◆ **SMALL BUSINESSES:** This rule only impacts DHS. Therefore, small businesses are not affected by this rule change.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Other persons are not affected by this change because this rule only impacts DHS.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost for affected persons as compliance is only within DHS.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses.

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

HUMAN SERVICES
 ADMINISTRATION
 DHS ADMINISTRATIVE OFFICE
 MULTI STATE OFFICE BUILDING
 195 N 1950 W
 SALT LAKE CITY, UT 84116
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Jonah Shaw by phone at 801-538-4225, by FAX at 801-538-3942, or by Internet E-mail at jshaw@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/16/2018

THIS RULE MAY BECOME EFFECTIVE ON: 04/23/2018

AUTHORIZED BY: Ann Williamson, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

This rule amendment is not expected to have any impact on medium or large business because it only implements necessary changes to align with preexisting background

screening Rule R501-14 and Section 62A-2-120 and has no added expenditures or costs that impact anyone listed in this chart.

R495. Human Services, Administration.

R495-885. Employee Background Screenings.

R495-885-1. Authority and Purpose.

(1) This Rule is authorized by Sections 62A-1-118 and 62A-2-120.

(2) This Rule clarifies the standards for Department of Human Services' employee and volunteer background screening.

(3) This Rule is created to hold DHS employees and volunteers to high standards of conduct, protect children and vulnerable adults, and promote public trust.

R495-885-2. Definitions.

(1) "BCI" means the Bureau of Criminal Identification, and is the designated state agency of the Division of Criminal Investigation and Technical Services Division, within the Department of Public Safety, responsible to maintain criminal records in the State of Utah.

(2) "Child" is defined in Section 62A-2-101.

(3) "Department" or "DHS" means the Department of Human Services.

(4) "Direct Access" is defined in Section 62A-2-101.

(5) "Director" means the Director of each DHS Office or Division, and includes the Director's designee.

(6) "Directly Supervised" is defined in 62A-2-101.

(7) "Employee" means a prospective employee who has received a job offer from DHS or a current employee of DHS, and includes paid interns.

(8) "Executive Director" means the Executive Director of DHS or the Deputy Director designated by the Executive Director.

(9) "FBI [r]ap [b]ack" is defined in Section 53-10-108.

(10) "Fingerprints" means an individual's fingerprints as copied electronically through a live-scan fingerprinting device or on two ten-print fingerprint cards.

(11) "Volunteer" means an individual who donates services without pay or other compensation, except expenses actually and reasonably incurred and pre-approved by the supervising agency, and includes unpaid interns.

(12) "Vulnerable [a]dult" is defined in Section 62A-2-101.

R495-885-3. Employees and Volunteers with Direct Access.

(1) The Department finds that a criminal history or identification as a perpetrator of abuse or neglect is directly relevant to an individual's employment or volunteer activities within DHS.

(2) All Department employees and volunteers who may have direct access and who may not be directly supervised at all times must have an annual background screening clearance in accordance with Sections 62A-1-118 and 62A-2-120, which shall include retention of fingerprints by BCI for FBI [r]ap [b]ack.

(3) Department employees and volunteers who may have direct access and may not be directly supervised at all times shall:

(a) [S]submit a background screening application to their respective Division or Office on a form created by the Department; and

(b) [S]submit fingerprints to the Department via a DHS-operated live-scan machine or [s];

two ten-print fingerprint cards produced by a law enforcement agency, an agency approved by the BCI, or another entity pre-approved by the Department; or

(c) not be required to submit fingerprints to DHS if they have submitted fingerprints for retention to:

(i) [tø] BCI for an Office or Division clearance, and the Office or Division ensures that the minimum standards set forth in Section 62A-2-120 are enforced; or

(ii) to the Department of Health for employees and volunteers of the Utah State Developmental Center per code [s]; or

(iii) to the Office of Licensing as an individual associated with a license as long as the fingerprints are retained by BCI for FBI [r]ap [b]ack.

(4) The DHS Office of Licensing shall access information to perform the background checks described in Sections 62A-1-118 and 62A-2-120 [s];

(a) [F]the DHS Office of Licensing will not duplicate fingerprint-based criminal background checks on Department employees or volunteers who have a current fingerprint-based criminal background clearance pursuant to R495-885-3(3) [s];

(b) [F]the fingerprints submitted by DHS employees who are required to obtain a background screening pursuant to Section 62A-2-120 as an individual associated with a licensee shall be utilized to perform the screening required by this R495-885.

(5) Screening results shall be reviewed in accordance with both the standards required by Section 62A-2-120 and this R495-885.

([5]6) Except as described in R495-885-5, Department employees and volunteers who would automatically be denied a background screening approval as described in Section 62A-2-120(5)(a) are not eligible for work with the Department.

([6]7) Except as described in R495-885-5, Department employees and volunteers who have any offense or finding described in Section 62A-2-120(6)(a) are not eligible for work with the Department.

([7]8) Each Division and Office shall develop and implement a protocol to ensure renewal background screening applications are submitted to the DHS Office of Licensing annually for all database systems that are not included in the FBI [r]ap [b]ack fingerprint process.

R495-885-4. Employees and Volunteers with No Direct Access.

(1) The Department finds that a criminal history is directly relevant to an individual's employment activities within DHS.

(2) The Department is not authorized to perform the checks described in Sections 62A-1-118 and 62A-2-120 for employees with no direct access.

(3) Each Division and Office will identify which of their positions includes no potential for direct access that is not directly supervised.

(4) Each employee who does not potentially have direct access shall submit an "Authorization and Waiver for Criminal History Check" form to a Department of Human Resources Management, DHS Field Office authorizing DHRM to perform name-based background checks.

(5) Except as described in R495-885-5, Department employees who would automatically be denied a background

screening approval based upon the offenses described in Section 62A-2-120(5)(a) are not eligible for work with the Department.

(6) Except as described in R495-885-5, Department employees who have any offense described in Section 62A-2-120(6)(a) are not eligible for work with the Department.

(7) Volunteers who do not have a background screening clearance pursuant to R495-885-3 will be directly supervised.

R495-885-5. Background Screening Review.

(1) The Office of Licensing or the Department of Human Resources Management, DHS Field Office shall notify the Director of the background screening results of each prospective employee, employee, and volunteer.

(2) The Director shall review the background screening results of each prospective employee, employee, and volunteer.

(3) Review criteria for prospective or probationary employees and volunteers:

(a) ~~[A]~~ automatic denial offenses outlined in 62A-2-120(5)(a) are not eligible for review by the DHS Employee and Volunteer Comprehensive Review Committee~~[-];~~

(b) ~~[F]~~ the Director has sole discretion to determine whether to deny employment or refer a prospective or probationary employee or volunteer with the following background screening findings to the DHS Employee and Volunteer Comprehensive Review Committee:

(i) ~~[A]~~ all other circumstances outlined in 62A-2-120(6)(a) ~~[-];~~ or

(ii) any MIS supported or substantiated findings (for individuals with direct access only);

(c) ~~[F]~~ the determinations of the Director and the DHS Employee and Volunteer Comprehensive Review Committee are final, and a prospective or probationary employee or volunteer has no right to appeal.

(4) Review process for non-probationary employees:

(a) ~~[F]~~ the following background screening findings shall be submitted to the Director:

(i) ~~[A]~~ automatic denial offenses outlined in 62A-2-120(5)(a) ~~[-];~~

(ii) ~~[A]~~ all other circumstances outlined in 62A-2-120(6)(a) ~~[-];~~ ~~or~~ ~~and~~

(iii) any MIS supported or substantiated findings~~[-];~~

(b) ~~[F]~~ the Director may consult with the Office of Licensing and shall consult with the Executive Director ~~[and/or the Office of Licensing, and shall]~~ to evaluate whether the non-probationary employee may present a risk of harm to a child or vulnerable adult, or does not meet DHS high standards of conduct or promote public trust~~[-];~~

(c) ~~[F]~~ the Executive Director may, in his/her sole discretion, approve the non-probationary employee for continued employment, including defining permissible and impermissible DHS-wide work-related activities, or consult the Department of Human Resource Management regarding termination of employment. The determination of the Executive Director is final.

R495-885-6. DHS Employee and Volunteer Comprehensive Review Committee.

(1) The Director of the following Department divisions and offices shall appoint one member and one alternate to serve on the DHS Employee and Volunteer Comprehensive Review Committee:

(a) the Executive Director's Office;

(b) the Division of Aging and Adult Services;

(c) the Division of Child and Family Services;

(d) the Division of Juvenile Justice Services;

(e) the Division of Services for People with Disabilities;

(f) the Division of Substance Abuse and Mental Health; and

~~[-] the Office of the Public Guardian; and]~~

(i) the Office of Licensing.

(2) DHS Employee and Volunteer Comprehensive Review Committee members and alternates shall be professional staff persons who are familiar with the programs they represent.

(3) The appointed Office of Licensing member shall chair the DHS Employee and Volunteer Comprehensive Review Committee as a non-voting member.

(4) ~~[Five]~~ Four voting members shall constitute a quorum.

(5) The DHS Employee and Volunteer Comprehensive Review Committee shall conduct a comprehensive review of a prospective or probationary employee or volunteer's background screening application, criminal history records, abuse, neglect or exploitation records, and related circumstances, in accordance with Section 62A-2-120(6).

R495-885-7. DHS Employee and Volunteer Comprehensive Review Process.

(1) The Office or Division may inform the prospective or probationary employee or volunteer that the results of a background screening indicate they have a criminal history or supported or substantiated findings of abuse or neglect, and the employee or volunteer may:

(a) voluntarily withdraw a pending employment or volunteer application;

(b) voluntarily terminate probationary employment; or

(c) request further review and submit any written statements or records that the employee or volunteer wants the DHS Employee and Volunteer Comprehensive Review Committee to consider, including but not limited to non-redacted documents relating to the results, the nature and seriousness of the offense or incident; the circumstances under which the offense or incident occurred; the age of the employee or volunteer when the offense or incident occurred; whether the offense or incident was an isolated or repeated incident; whether the offense or incident directly relates to abuse of a child or vulnerable adult, evidence of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed~~[-];~~

(i) an employee or volunteer who wants the DHS Employee and Volunteer Comprehensive Review Committee to consider documents relating to the screening results shall submit the documents to the Office or Division within 15 calendar days of notification by the Office ~~of~~ or Division.

(2) The Office or Division shall gather information from a prospective or probationary employee or volunteer who requests review and submit it to the DHS Employee and Volunteer Comprehensive Review Committee~~[-];~~

(a) ~~[F]~~ the Division may redact any personally identifying information of the prospective or probationary employee or volunteer that does not compromise the content of the review.

(3) The DHS Employee and Volunteer Comprehensive Review Committee shall evaluate the information provided by the Office or Division and any information provided by the prospective or

probationary employee or volunteer. The DHS Employee and Volunteer Comprehensive Review Committee shall consider:

- (a) the date of the offense or incident;
- (b) the nature and seriousness of the offense or incident;
- (c) the circumstances under which the offense or incident occurred;
- (d) the age of prospective or probationary employee or volunteer when the offense or incident occurred;
- (e) whether the offense or incident was an isolated or repeated incident;
- (f) whether the offense or incident directly relates to abuse of a child or vulnerable adult;
- (g) whether approval would likely create a risk of harm to a child or a vulnerable adult;
- (h) whether the information may be relevant to the employment or volunteer activities of that person;
- (i) whether the relevant information should be relied upon to deny employment or volunteer activities; and
- (j) that the background screening approval may be transferred to other DHS Offices or Divisions.

(4) The DHS Employee and Volunteer Comprehensive Review Committee may approve the background screening of a prospective or probationary employee or volunteer only after a simple majority of the voting members of the DHS Employee and Volunteer Comprehensive Review Committee determines that approval will not likely create a risk of harm to a child or vulnerable adult or the prospective employee does not meet DHS high standards of conduct or promote public trust, and identify permissible and impermissible DHS-wide work-related activities.

(5) The DHS Employee and Volunteer Comprehensive Review Committee shall recommend denial of the background screening of a prospective or probationary employee or volunteer when it finds that approval will likely create a risk of harm to a child or vulnerable adult in any DHS Office or Division or the prospective or probationary employee or volunteer does not meet DHS high standards of conduct or promote public trust;

(6) [E] except as described in R495-885-7(6), a prospective employee or a volunteer whose background screening has been denied shall not be accepted as a volunteer or hired as an employee;

(b) [A] a probationary employee whose background screening has been denied shall have no direct access and employment shall be terminated.

(a) A Director may, in his/her sole discretion, appeal the decision of the DHS Employee and Volunteer Comprehensive Review Committee to the Executive Director.

R495-885-8. Division/Office Responsibilities.

(1) The Department shall notify the DHS Office of Licensing within five months of the termination of each employee for whom fingerprints have been retained under Section 62A-2-120 to enable the Office of Licensing to notify BCI and ensure the destruction of fingerprints.

(2) Each Division and Office shall ensure that an employee or volunteer who previously was screened based upon having no direct access shall, prior to having any direct access, be screened and approved in accordance with R495-885.

R495-885-9. Compliance.

The Department will set an implementation schedule to be in compliance with this rule no later than ~~December 31, 2017~~ June 30, 2018.

KEY: background, employees, human services, screenings

Date of Enactment or Last Substantive Amendment: ~~February 23, 2017~~ 2018

Authorizing, and Implemented or Interpreted Law: 62A-1-118; 62A-2-120

Public Service Commission, Administration **R746-8-403** Lifeline Support

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 42632

FILED: 02/28/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The new Rule R746-8 created ambiguity as to whether landline carriers would continue to be eligible to receive subsidies under state lifeline programs. (EDITOR'S NOTE: The proposed new Rule R746-8 was published in the January 15, 2018, Bulletin under Filing No. 42424 and is effective as of 02/21/2018.)

SUMMARY OF THE RULE OR CHANGE: Subsection R746-8-403(2)(a)(i) is added to clarify landlines would be eligible to receive Lifeline subsidies.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 54-3-1 and Section 54-4-1 and Section 54-8b-10 and Section 54-8b-15

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This minor amendment to a recently enacted rule should have no impact on the state budget. This amendment merely confirms the existing, established regulatory practice of allowing landline based service providers to receive subsidies under state Lifeline programs. Landline carriers have long been eligible for the subsidy. When this rule became effective, the text created ambiguity as to whether Landline carriers would continue to be eligible. This amendment clarifies the ambiguity.

♦ **LOCAL GOVERNMENTS:** This minor amendment to a recently enacted rule should have no impact on local governments. This amendment merely confirms the existing, established regulatory practice of allowing landline based service providers to receive subsidies under state Lifeline

programs. Landline carriers have long been eligible for the subsidy. When this rule became effective, the text created ambiguity as to whether Landline carries would continue to be eligible. This amendment clarifies the ambiguity.

♦ **SMALL BUSINESSES:** This minor amendment to a recently enacted rule should have no impact on small business. This amendment merely confirms the existing, established regulatory practice of allowing landline based service providers to receive subsidies under state Lifeline programs. Landline carriers have long been eligible for the subsidy. When this rule became effective, the text created ambiguity as to whether Landline carries would continue to be eligible. This amendment clarifies the ambiguity.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This minor amendment to a recently enacted rule should have no impact on business. This amendment merely confirms the existing, established regulatory practice of allowing landline based service providers to receive subsidies under state Lifeline programs. Landline carriers have long been eligible for the subsidy. When this rule became effective, the text created ambiguity as to whether Landline carries would continue to be eligible. This amendment clarifies the ambiguity.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This minor amendment to a recently enacted rule should have no impact on affected persons. This amendment merely confirms the existing, established regulatory practice of allowing landline based service providers to receive subsidies under state Lifeline programs. Landline carriers have long been eligible for the subsidy. When this rule became effective, the text created ambiguity as to whether Landline carries would continue to be eligible. This amendment clarifies the ambiguity.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This minor amendment to a recently enacted rule should have no impact on business. This amendment merely confirms the existing, established regulatory practice of allowing landline based service providers to receive subsidies under state Lifeline programs. Landline carriers have long been eligible for the subsidy. When this rule became effective, the text created ambiguity as to whether Landline carries would continue to be eligible. This amendment clarifies the ambiguity.

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

PUBLIC SERVICE COMMISSION
 ADMINISTRATION
 HEBER M WELLS BLDG
 160 E 300 S
 SALT LAKE CITY, UT 84111-2316
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ♦ Michael Hammer by phone at 801-530-6729, or by Internet E-mail at michaelhammer@utah.gov
- ♦ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/16/2018

THIS RULE MAY BECOME EFFECTIVE ON: 04/23/2018

AUTHORIZED BY: Michael Hammer, Administrative Law Judge

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

This minor amendment to a recently enacted rule should have no impact on business. This amendment merely confirms the existing, established regulatory practice of allowing landline based service providers to receive subsidies under state Lifeline programs. Landline carriers have long been eligible for the subsidy. When this rule became effective, the text created ambiguity as to whether Landline carriers would continue to be eligible. This amendment clarifies the ambiguity.

PSC Chair Thad LeVar has reviewed and approved this fiscal analysis.

R746. Public Service Commission, Administration.**R746-8. Utah Universal Public Telecommunications Service Support Fund (UUSF).****R746-8-403. Lifeline Support.**

(1) In addition to any disbursement calculated under R746-8-401 or R746-8-402, an ETC may receive an ongoing distribution through ongoing participation in a Commission-approved Lifeline program upon a specific finding of public interest by the Commission.

(2)(a) The support claimed under this Subsection R746-8-403 may not exceed \$3.50 per Lifeline subscriber per month of subscription to a service that:

(i) provides service over landlines; or

(ii)(A) meets FCC broadband Lifeline requirements as set forth in 47 C.F.R. 54.408; and

(B) for wireless Lifeline, allows, at no charge beyond the basic monthly fee, unlimited texting and at least 750 voice minutes per month; or

(iii)(A) meets FCC broadband Lifeline requirements as set forth in 47 C.F.R. 54.408; and

(B) does not include a voice component.

(b) Lifeline distributions will be based on eligible Lifeline subscribers as of the first day of each month, with no prorated discounts.

(3) An ETC that is approved to participate in the Commission Lifeline program shall:

(a) provide potential Lifeline subscribers with application materials and information;

(b) provide service to any customer who is verified as eligible for participation through:

(i) the FCC's national verifier system; or

(ii) if the FCC's national verifier system is not yet operational, the program administrator with which the Commission contracts to administer the initial and continued eligibility verification of state Lifeline participants;

(c) waive, for Lifeline subscribers, the following charges:

(i) customer security deposits, if the customer voluntarily elects to receive toll blocking; and

(ii) within any 12-month period, the first nonrecurring service charge for:

(A) changing local exchange usage service to Lifeline service; and

(B) changing from flat rate service to message rate service; and

(d)(i) add the Lifeline discount to a customer's account within five (5) business days of notification of the customer's eligibility under FCC Lifeline requirements; and;

(ii) remove the Lifeline discount from a Lifeline subscriber's account within five (5) business days of notification of the Lifeline subscriber's ineligibility under FCC Lifeline requirements; and

(e) submit to the Division by May 1 of each year, a complete Lifeline subscriber list, as defined by the FCC.

(4) An ETC participating in the Commission Lifeline program may not:

(a) disconnect Lifeline telephone service for nonpayment of toll service;

(b) require a Lifeline subscriber to purchase additional services from the ETC; or

(c) prohibit a Lifeline subscriber from purchasing additional services from the ETC, unless the participant fails to comply with the ETC's terms and conditions for those additional services.

KEY: Utah universal service fund, surcharges and disbursements, speech/hearing challenges, assistive devices and technology

Date of Enactment or Last Substantive Amendment: 2018

Authorizing, and Implemented or Interpreted Law: 54-3-1; 54-4-1; 54-8b-15; 54-8b-10

Transportation, Operations,
Construction
R916-4
Construction Manager/General
Contractor Contracts

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 42616

FILED: 02/20/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Transportation (Department) is amending this rule to recognize its authority to contract the constructing of transportation infrastructure projects using a variation of Contract Manager/General Contractor (CM/GC) contracting arrangement known as Progressive CM/GC, which is also referred to in the transportation industry as the Progressive Design-Build contracting method.

SUMMARY OF THE RULE OR CHANGE: This amendment adds text to the existing rule that describes the conditions under which it is appropriate for the Department to employ Progressive CM/GC contracting. The additional text describes Progressive CM/GC contracting and the procedures the Department must follow when soliciting for vendors interested in entering into a Progressive CM/GC contract relationship.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63G-3-201 and Section 63G-6a-106 and Section 63G-6a-1302 and Section 63G-6a-702 and Subsection 72-1-201(1)(h)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Department's goal in amending Rule R916-4 is to enable it to utilize a new and innovative contracting method that is known in the industry to reduce design and construction costs. State Departments of Transportation and public utilities in other parts of the U.S., particularly water utilities have been using Progressive CM/GC contracting for several years. They use Progressive CM/GC contracting because it reduces the time needed to design and construct large infrastructure projects, which saves money. Design and construction contractors do not face the same degree of risk with Progressive CM/GC contracting, which allows them to reduce their fees. The Department's motivation for making this amendment is to allow it to employ a contracting method that will result in savings for the state budget. However, such savings are speculative now, and cannot be quantified.

◆ **LOCAL GOVERNMENTS:** This amendment to Rule R916-4 will not affect local governments in any way. It does not require anything of local governments nor provide them with any direct benefits. This amendment only applies to and will only affect the Department.

◆ **SMALL BUSINESSES:** This amendment to Rule R916-4 will not have a direct affect on small businesses. It does not require anything of small business nor provide them with any direct benefits. This amendment only applies to and will only affect the Department.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment to Rule R916-4 will not affect persons other than small businesses, businesses, or local government entities in any way. It does not require anything of them nor provide them with any direct benefits. This amendment only applies to and will only affect the Department.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No person, legal or natural, will be affected directly by this amendment. There are no compliance costs included in or arising from this amendment. This amendment only applies to the Department and will only affect how the Department contracts for transportation infrastructure projects.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment to Rule R916-4 will have no direct fiscal impact on businesses.

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

TRANSPORTATION
OPERATIONS, CONSTRUCTION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cnewman@utah.gov

◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov
◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/16/2018

THIS RULE MAY BECOME EFFECTIVE ON: 04/23/2018

AUTHORIZED BY: Carlos Braceras, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

This amendment to rule R916-4 authorizes and provides a procedure for the Department to follow when employing a variation of CM/GC contracting known as Progressive CM/GC (also referred to in the transportation industry as Progressive Design-Build). This contracting method will be used on large transportation infrastructure construction projects. Design and construction firms will form teams to prepare and submit proposals in response to RFPs published by the department. The Department will contract with the successful team to design the project and possibly, but not necessarily, perform and or manage the construction phase. Considering the magnitude and complexity of projects for which this contracting method will be employed, only a small number of firms in the Utah market have the experience and ability to complete a Progressive CM/GC project successfully.

Based upon its review of the firms listed in the Department of Workforce Services' Firm Find database, the Department believes there is one small business and as many as 17 non-small businesses categorized as Highway, Street, and Bridge Construction firms, and 10 small businesses and as many as 20 non-small businesses categorized as Engineering Services firms located in Utah that have the ability and are likely to compete for Progressive CM/GC contracts. Therefore, there are 48 businesses in Utah that might be impacted by this amendment. Those businesses still must form teams, assemble successful proposals, and be awarded contracts by the Department before the amendment will have any direct impact on them. And for those firms that are impacted by the amendment, the impact will be positive in that the firms will gain additional opportunities to profit from contracts obtained as an indirect result of the Department making this change to rule R916-4.

The Department of Workforce Services' Firm Find database lists 176 firms under NCAIS #237310, Highway, Street, and Bridge Construction category. Of these, 155 reported having 0 to 49 employees and are considered small businesses, which leaves 21 firms that report employing 50 to 499 employees and are, by definition, large businesses. The Department of Workforce Services' Firm Find database lists 965 firms under NCAIS #541330, Engineering Services category. Of these, 937 reported having 0 to 49 employees and are considered small businesses, which leaves 28 firms that report employing 50 to 999 employees and are, by definition, large businesses.

The executive director of the Department of Transportation, Carlos E. Bracerias, has reviewed and approved this fiscal analysis.

R916. Transportation, Operations, Construction.**R916-4. Construction Manager/General Contractor [Contracts and Progressive Construction Manager/General Contractor Contracts.****R916-4-1. Purpose.**

(1) Pursuant to Utah Code Section 63G-6a-106(3)(a), this rule establishes the Department's procedures to procure transportation construction under the Construction Manager/General Contractor (CM/GC) approach authorized in Utah Code Section 63G-6a-1302. CM/GC contracting seeks to provide a collaborative project delivery method which may result in: A savings of time and cost; improved quality expectations as to the end product, schedule, and budget; and risk management savings through lack of duplication of expenses, and through early, continuous and coordinated efforts.

R916-4-2. Authority.

(1) This rule is authorized by sections 63G-6a-106, 63G-6a-702, and 63G-6a-1302 of the Utah Procurement Code; section 63G-3-201 of the Utah Administrative Rulemaking Act; and subsection 72-1-201(1)(h) of the Utah Transportation Code. [This rule is authorized by grants of rulemaking authority in Sections 63G-6a-106(3)(a) and 63G-6a-1302 of the Utah Procurement Code; Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and Sections 72-1-201(h), 72-2-206, and 72-6-105 of the Utah Transportation Code.]

R916-4-3. Policy.

(1) When the Executive Director or designee determines it appropriate, Department may use CM/GC method of project delivery. CM/GC is not recommended for every project, therefore, the decision to use the method must ~~take into account~~ consider the factors listed in Utah Code Subsection 63G-6a-1302(3). When the Executive Director or designee makes such a determination, the procurement officer responsible for the project shall execute and include in the contract file a written statement describing the facts leading to the selection of the method of construction contracting management used for the project.

(2) This rule also applies when the Department uses a variation of CM/GC contracting known as Progressive CM/GC (also referred to in the transportation industry as Progressive Design-Build).

(3) When a Progressive CM/GC contracting approach is used, the Department shall enter into one or multiple contracts to provide both engineering/design services, construction services, maintenance services, or a combination thereof pursuant to a scope of work statement provided by the Department.

R916-4-4. Request for Proposals (RFP).

(1) The Department will issue a request for proposals (RFP) from interested contractors.

(2) The RFP may require separate technical and price proposals, meeting requirements as stated in the RFP.

(3) The RFP may require a minimum mandatory technical level.

R916-4-5. Evaluation Team.

(1) The Department shall establish a team for evaluating ~~[the technical]~~ proposals ~~[consisting of no fewer than 5 members]~~.

(2) One member of the team may be an employee of a consulting engineering firm, selected based on recommendation from the American Council of Engineering Companies of Utah (ACEC); and

(3) One member may be an employee of a licensed contractor, selected based on recommendation from the Utah Chapter of the Association of General Contractors (AGC).

(4) No evaluation team member may be an employee of any firm that participates in preparing a proposal to be submitted in response to an RFP or RLOI issued by the Department.

(5) Every member of an evaluation team must disclose conflicts of interest pursuant to the requirements of state and federal ethics and procurement law and the Department's Standard Specifications and policies.

R916-4-6. Evaluation of Proposals and Discussions with Proposers.

(1) The Department shall evaluate proposals, in accordance with the evaluation criteria set forth in the RFP.

(2) As part of the qualifications specified in the RFP, the Department may require that potential contractors, at a minimum, demonstrate their:

- (a) Construction experience with similar projects;
 - (b) financial, manpower and equipment resources available for the project;
 - (c) experience with other negotiated contracts; and
 - (d) preconstruction or design support experience.
- (3) The Department may require potential contractors to participate in formal interviews as part of the selection process.

R916-4-7. Acceptable Bid Security; Performance and Payment Bonds.

(1) The Executive Director or designee shall have the authority to waive the requirement to provide bid security, or may reduce the amount of such security, if he or she determines that the bid security otherwise required by Part 11 of the Utah Procurement Code to be unnecessary to protect the State.

(2) The Executive Director or designee may reduce the amount of the payment and performance bonds below the 100% level required by Part 11 of the Utah Procurement Code, if he or she determines that a 100% bond is unnecessary to protect the State.

(3) Bid security, payment bonds and performance bonds must be provided on the forms included in the RFP.

R916-4-8. Required Contract Clauses.

~~(1) The Department shall comply with Section 63G-6a-1202 regarding clauses for contracts. The Department shall establish standard contract clauses to assist the Department and to help contractors and potential contractors to understand applicable requirements. These standard contract clauses may be modified as needed to meet the requirements of individual projects. [The CM/GC contract documents shall include the contract clauses set forth in Utah Administrative Code Rule R23-1-60, subject to such modifications as the Executive Director or designee believes appropriate. Any modifications shall be supported by a written determination of the Executive Director or designee that describes the circumstances justifying the variations, and notice of any material variation shall be included in the RFP.]~~

~~(2) All definitions in the Utah Procurement Code apply to this Rule unless otherwise specified in this Rule. This administrative rule provides additional requirements and procedures and must be used in conjunction with the Procurement Code.~~

~~(3) All contracts shall include text that allows the Department to terminate the contract for cause at any time, or without~~

~~cause after providing the contractor with reasonable notice. The Department will pay the contractor the amount owing as of the termination date.~~

R916-4-9. Selection.

The basis for selection shall be stated in the RFP. Selection may be based on any of the following approaches.

(1) By the responsible proposer offering the lowest priced responsive proposal. If the RFP includes a mandatory technical level, no proposal shall be considered responsive unless it meets that level;

(2) By the responsible proposer whose proposal is evaluated as providing the best value to Department;

(3) By the responsible proposer whose proposal is evaluated as representing the most qualified proposer; or

(4) Other approaches as determined by the Executive Director or designee, which satisfy the requirements of the Utah Procurement Code.

R916-4-10. Award of Contracts.

(1) The CM/GC approach consists of the following two contract phases:

(a) Preconstruction or design services, which may include value engineering, cost estimating, conceptual estimating, constructability reviews, scheduling, and Maintenance of Traffic plans.

(b) Construction services, which will be awarded after the plans have been sufficiently developed and a price for construction services has been successfully validated and accepted. In the event that a price is not validated and accepted, the Department shall not award the construction phase of the contract. Incremental construction contracts may be awarded after prices are validated and accepted for each contract. The Department may choose to retain any of the parties if the construction/design services phase of the contract is not awarded.

(2) The Department shall not be required to award a contract during either of the contract phases. However, following an award, the Department shall provide notice of the award to the successful CM/GC proposer followed by a notice to proceed with the work.

(3) Contractors or contractor teams must not begin work before receiving the notice to proceed with work described in rule R916-8-12(2).

KEY: transportation, highways, contracts, construction

Date of Enactment or Last Substantive Amendment: [March 27, 2015]2018

Notice of Continuation: July 9, 2015

Authorizing, and Implemented or Interpreted Law: 63G-6a-1302; 63G-6a-106(3)(a); 72-1-201

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends April 16, 2018.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through July 13, 2018, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

**Human Services, Administration,
Administrative Services, Licensing
R501-7
Child Placing Adoption Agencies**

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 42317
FILED: 02/23/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change in proposed rule is in response to public comments.

SUMMARY OF THE RULE OR CHANGE: These changes and clarifications to the proposed rule content are based on the adoption community and stakeholder feedback. (EDITOR'S NOTE: The original repeal and reenactment upon which this change in proposed rule (CPR) was based was published in the December 1, 2017, issue of the Utah State Bulletin, on page 50. Underlining in the rule below indicates text that has been added since the publication of the repeal and reenactment mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the repeal and reenactment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-2-106

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There are no changes to what was in the original repeal and reenactment.
- ◆ LOCAL GOVERNMENTS: There are no changes to what was in the original repeal and reenactment.
- ◆ SMALL BUSINESSES: There are no changes to what was in the original repeal and reenactment.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are no changes to what was in the original repeal and reenactment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no changes to what was in the original repeal and reenactment.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be minimal fiscal impact to implement this rule, however in the long run, it could reflect a fiscal benefit to all affected parties due to more transparent and ethical processes and fewer contested adoptions.

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

HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES,
LICENSING
195 N 1950 W 1ST FLR
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Janice Weinman by phone at 385-321-5586, by FAX at 801-538-4553, or by Internet E-mail at jweinman@utah.gov
- ◆ Jonah Shaw by phone at 801-538-4225, by FAX at 801-538-3942, or by Internet E-mail at jshaw@utah.gov
- ◆ Samantha Hanson by phone at 801-538-4041, or by Internet E-mail at samanthahanson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/16/2018

THIS RULE MAY BECOME EFFECTIVE ON: 04/23/2018

AUTHORIZED BY: Ann Williamson, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$33,200	\$28,400	\$28,400
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$33,200	\$28,400	\$28,400
Total Fiscal Costs:	\$66,400	\$56,800	\$56,800
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$33,200	\$28,400	\$28,400
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$33,200	\$28,400	\$28,400
Net Fiscal Benefits:	\$33,200	\$28,400	\$28,400

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses
 This rule is not expected to have any impact on medium or large businesses because all of the adoption agencies in Utah are small businesses. The small business totals are estimated impact on all agencies; however some agencies will not be impacted since they are already implementing these practices. Agencies are also likely to pass their costs along to their clients.

R501. Human Services, Administration, Administrative Services, Licensing.

R501-7. Child Placing Adoption Agencies.

R501-7-1. Authority and Purpose.

- (1) This rule is authorized under Section 62A-2-106.
- (2) This rule establishes standards for licensing agencies to provide child placing adoption services.

R501-7-2. Definitions.

- (1) "Adoption" is defined in Section 78B-6-103.
- (2) "Adoptive Parent" also means potential adoptive parent(s).
- (3) "Child Placing" is defined in 62A-2-101.
- (4) "Child Placing Adoption Agency" means an individual, agency, firm, corporation, association, or group children's home that engages in child placing for the purpose of finding a person to adopt a child or placing a child in a home for adoption.
- (5) "Adoption Related Expenses" are defined in 76-7-203.
- (6) "Adoption Services" is defined in 62A-4a-101(2).
- (7) "Adoption Related Counseling" includes clinical counseling and psycho educational counseling that is specific to adoption and includes the counseling provided to pre-existing parent(s) as required by circumstances and 78B-6-119.
- (8) "Agency" means a child placing adoption agency.
- (9) "Allowable Adoptive Parent Information" is the information shared with birth parents regarding the adoptive parent(s). It may include:
 - (a) non-identifying information as follows:
 - (b) demographics, such as age, nationality, religious affiliation;
 - (c) health status;
 - (d) physical characteristics;
 - (e) educational achievement and profession;
 - (f) family characteristics, including marital history and length, sexual orientation, and any other children;
 - (g) support system;

- (h) discipline preferences;
- (i) reason for adopting;
- (j) non-identifying information transparently disclosed by the Agency in advance; and
- (k) any other identifying or non-identifying information agreed upon via a signed release of information by the [birth]adoptive parent.
- (10) "Allowable Child/Pre-existing Parent Information" is the information shared with adoptive parent(s). It includes:
 - (a) Genetic and Social History defined 78B-6-103 and used as described in 78B-6-143 which shall include all items defined in 76B-6-103 inclusive of:
 - (i) birth family's medical, genetic, social, and mental health history;
 - (ii) information pertaining to changes in caregivers; and
 - (iii) a description of the child's race, cultural and ethnic background.
 - (b) Health History as defined 78B-6-103 and used as described in 78B-6-143 which shall include all items defined in 76B-6-103 inclusive of:
 - (i) Pre-natal, labor and delivery records for mother and infant;
 - (ii) medical records including the child's physical health, immunizations, and any known or potentially significant factors that may interfere with normal development or may signal any potential medical problems; and
 - (iii) non-identifying information transparently disclosed by the Agency in advance.
 - (c) Any other identifying or non-identifying information agreed upon via a signed release of information by the birth parent.
- (11) "Client" a client of a child placing adoption agency is a pre-existing parent(s), adoptive parent(s) who have consented to, or been ordered by the court to receive adoption services and child(ren)placed or to be placed. For purposes of background screening in accordance with 62A-2-101 only, the adoptive parent(s) are also defined as "Associated with the Licensee".
- (12) "Confinement" means the time period when a woman is hospitalized or medically restricted due to her pregnancy and childbirth. Individualized medical documentation is required to justify any confinement period longer than 6 weeks.
- (13) "Directly Affected Person" is defined in 76-7-203.
- (14) "Disruption" means the termination of an adoptive placement prior to the issuance of a final decree of adoption.
- (15) "Foster Care" means family care in the residence of a foster parent who is licensed or certified pursuant to R501-12.
- (16) "Genetic and Social History" is defined in Section 78B-6-103.
- (17) "Health History" is defined in Section 78B-6-103.
- (18) "High Needs Child" is as defined in 62A-4a-601.
- ~~[(19) "Suffered from Prenatal Exposure" under this definition of high needs child means a child that has been exposed to or is dependent upon harmful substances as a result of the mother's use of illegal substances or abuse of prescribed medications during pregnancy, or there is reason to believe a child has or is at risk to develop a fetal alcohol spectrum disorder.~~
-]([20]19) "Home Study" is equivalent to a pre-placement adoptive evaluation as outlined in 78B-6-128 and is the written assessment of an applicant's ability to be considered for adoptive placement.

(2[4]0) "Infant" for purposes of adoption means a child up to six months in age at placement.

(2[2]1) "Intercountry Adoption" is when an individual or couple becomes the legal and permanent parents of a child who is a ~~national~~ habitual resident of another country and is governed by the laws of both countries.

(2[3]2) "Legal Risk Placement" means at the time the placement is made, one or more of the child's biological parents or putative legal parents has not executed a legal relinquishment or consent to the adoption, their parental rights have not been lawfully terminated, or they have expressed their intention to exercise parental rights or contest the adoption.

(2[4]3) "Match" means the identification of a specific potential adoptive child with a specific potential adoptive family.

(2[5]4) "Mental Health Therapist" is defined in Section 58-60-102.

(2[6]5) "Office" means the DHS Office of Licensing.

(2[7]6) "Pre-existing Parent" is defined in 78B-6-103.

(2[8]7) "Special Needs Child" means there is known evidence that:

- (a) the child is 5 years of age or older;
- (b) the child is under the age of 18 with a physical, emotional or mental disability; or
- (c) the child is a member of a sibling group placed together for adoption.

(2[9]8) "Unmarried Biological Father" is defined in Section 78B-6-103(17).

R501-7-3. Legal Requirements.

(1) In addition to this rule, all child placing adoption agencies shall comply with R495-876, R501-1, R501-2-1 through R501-2-5, R501-2-8 through R501-2-14, R501-14; ~~[5-]~~Title 58, Chapter 60; ~~[6]~~Title 62A, Chapters 2 and 4a; Section 76-7-203; 78A-6; 78B-6; ~~[and]~~78B-13; 78B-15; and all other applicable local, State and Federal laws.

(2) Child placing adoption agencies that do not arrange housing for birth mothers are exempt from R501-2-5, 10, 11, and 12.

(3) A child placing adoption agency shall:

- (a) be legally responsible for the child following relinquishment of the child to the adoption agency until the adoption is finalized, unless a court of competent jurisdiction or applicable law places legal responsibility with another party, in accordance with Section 78B-6-134;
- (b) comply with the Indian Child Welfare Act;
- (c) obtain a child placing foster license and comply with R501-12 if providing foster care;
- (d) obtain a residential support license and comply with R501-22 if providing residential support services to pre-existing parent(s);
- (e) comply with the Interstate Compact on the Placement of Children, in accordance with Section 62A-4a-701 et seq; and
- (f) ensure that its employees, contractors, volunteers and agents comply with all laws relating to adoption services.

(4) The Division of Child and Family Services shall additionally comply with R512-40 for recruitment, home study and approval; R512-41 for qualifying and adoptive family and adoptive placement; R512-302 for responsibilities pertaining to out of home caregivers and any other section of 62A-4a and R512 that governs the

provision of adoptive services to child welfare clients served by the Division of Child and Family Services.

(a) The aforementioned child welfare statute and rule shall supersede this rule when in conflict for child welfare clients served by the Division of Child and Family Services.

R501-7-4. Administrative Ethics and Responsibilities.

(1) Child placing adoption agencies shall:

(a) identify and strictly adhere to accurate accounting practices, including all fee requirements of this rule;

(b) always act in the best interest of a child;

(i) best interest determinations are made by considering a number of factors related to the child's circumstances including age and developmental needs and the parent or caregiver's circumstances and capacity to parent the child to adulthood and shall consider the pre-existing parent(s)' wishes when parental rights are voluntarily relinquished;

(c) provide services and adhere to ethical practices that support and comply with all client rights and responsibilities;

(d) develop and comply with processes that are free from fraud, duress or undue influence and avoid and mitigate conflicts of interest in order to preserve the protections of clients to include:

(i) not giving preferential treatment to its board members, employees, volunteers, agents, consultants, independent contractors, donors, or their respective families with regard to child placing decisions;

(ii) not accepting or soliciting donations from an adoptive family that is under consideration for placement of a child or pending finalization of an adoption;

(A) a generalized mass solicitation through newsletters or the media shall not constitute a violation under this rule;

(iii) not coercing or incentivizing pre-existing parent(s) to make a plan of adoption or to relinquish their parental rights;

(iv) not permitting its employees, volunteers, agents, consultants, or independent contractors to provide adoption services to both the pre-existing parent(s) and the adoptive parent(s) unless all parties are made aware of potential conflicts of interest and sign a voluntary consent;

(v) inform clients that they are free to select independent attorneys and other ~~[service providers]~~ non-child placing adoption services;

(A) client bears the responsibility to select a competent provider and their choice may affect costs incurred;

(vi) not referring any individual to services in which the agency's board members, volunteers, employees, agents, consultants, independent contractors, or their respective families are engaged, without first disclosing potential conflicts of interest and informing said individuals that they are free to select independent adoption service providers; and

(vii) require members of the governing body to disclose, in writing, to the chairperson of the governing body and the Office of Licensing, any direct or indirect financial interest in the agency;

(e) manage and share information while still preserving confidentiality when required. This includes:

(i) documenting information shared with potential adoptive parent(s) regarding unknown pre-existing parent(s), Indian Child Welfare Act, and any known information that could potentially disrupt an adoptive placement;

(ii) respond to requests for information from clients and former clients within 30 days and document all requests for information or actual sharing of information to/from birth families, adoptees, adoptive families, and others;

(iii) provide non-identifying information in client files that can allowably be shared, and shall comply with previous releases and established policies;

(iv) the agency shall refer clients to the Mutual-Consent Voluntary Adoption Registry through Department of Health Vital Records if adult adoptees or birth family members want to reunite; and

(v) in more urgent circumstances that could have serious implication to any client or prior client, the agency will utilize prior contact and emergency contact information, as well as engage in simple social media and search engine inquiries to locate and communicate with former clients;

(vi) agencies may engage in a fee based more extensive service to search if desired;

(vii) the agency may share information with third party search providers only if consent has been given by the affected party;

(viii) not misrepresent or withhold any facts or allowable adoptive parent(s) or child/pre-existing parent(s) information relating to its services, involved individuals, or the applicable law;

(f) accept and utilize third party assessments, evaluations, references, home studies or pre-placement evaluations only if received directly from the document's author;

(g) preserve the confidentiality and content of client files;

(h) with respect to adoption services an agency shall refer to or utilize only agencies, entities or individuals that are authorized to provide the service by the laws of this state or the jurisdiction in which that agency, entity or individual performs the service;

(i) provide at least 30 days' prior written notice to the Office of Licensing that the agency is:

(i) dissolving or ceasing to provide child placing services; or

(ii) implementing significant changes in adoption services provided, such as adding or eliminating [~~international~~]intercountry adoption.

(j) Provide copies of all document signed by clients directly to those clients upon request.

(2) In addition to policy and procedure requirements outlined in R501-2, agencies shall develop and adhere to the following adoption-related policies and procedures:

(a) a process regarding how to transfer a relinquishment to another agency in compliance with 78B-6-124 (7);

(b) a process to identify a high needs child as defined in 62A-4a-601, and once identified comply with 62A-4a-609 including disclosure and training to adoptive parent(s);

(c) a process for the temporary placement of children awaiting adoptive placement for over 30-days;

(d) a process and standards for the evaluation and approval or denial of an adoptive home study or pre-placement evaluation;

(e) process and standards for the evaluation and approval or denial of applications from prospective adoptive parent(s);

(f) a written plan for contact, file maintenance, and record retrieval in the event that the agency ceases to provide child placement adoption services;

(i) this plan may involve a secondary licensed or file retention entity;

(g) a process for identifying the pre-existing parent(s)' utilization of alternative payment sources including any public assistance that may defray adoptive parent(s) costs;

(h) policy identifying what is allowable child/pre-existing parent(s) information to be shared with potential adoptive parent(s), including the development of releases of information as needed;

(i) policy identifying what is allowable adoptive parent(s) information to be shared with pre-existing parent(s) including the development of releases of information as needed;

(j) process for refunds to include refunding over-paid fixed costs for birth parent expenses and/or the utilization of over-paid estimated costs toward other birth parent expenses; and

(k) written policy to be provided to the adoptive parent(s) outlining how the match is determined, its relationship to any fees, and how it is managed by the agency.

R501-7-5. Staffing Requirements.

(1) A child placing adoption agency shall have at least one social work supervisor responsible for directly supervising all staff and volunteers who provide adoption services to clients.

(2) If an Executive Director is serving as a social work supervisor, they shall not supervise more than four staff and volunteers who provide adoption services to clients.

(3) Each social work supervisor shall be licensed in this state as a mental health therapist, shall comply with the Utah Mental Health Professional Practice Act, and shall have at least one year of full time paid professional experience in a licensed child placing adoption agency.

(4) A social work supervisor may not supervise more than eight staff and volunteers who provide adoption services to clients.

(5) An executive director shall have at least one year of full time paid experience in a licensed child placing adoption agency.

(6) All staff that provide [~~direct client~~] services shall be trained a minimum of 20 hours of pre-service training, prior to independently providing direct client services, and 12 hours annual in-service training.

(a) Training content shall include:

(i) agency policy and procedures;

(ii) adoption ethics, laws, and rules;

(iii) the provision of professional and trauma informed adoption practices; and

(iv) any evaluations they will be performing.

(b) Staff will be supervised for adherence to training topics.

R501-7-6. Fees and Disclosures.

(1) A child placing adoption agency may charge adoptive parent(s) agency fees which includes administrative and professional services provided on behalf of the adoptive parent(s), including but not limited to:

(a) agency overhead;

(b) personnel;

(c) background screenings for adoptive parent(s) and staff;

(d) training;

(e) insurance;

(f) legal services for the agency;

(g) advertising/recruiting;

(h) post-placement visit;

(i) agency staff support throughout pregnancy, birth, placement and post placement;

(j) home studies, if completed by the agency; and

(k) home study updates, if completed by the agency[-];

(i) copies of purchased home studies and updates are to be provided to the subjects of these documents upon request.

(2) An agency fee must be itemized to clarify what is included or specifically excluded.

(3) Any fee billed inclusive of an agency fee shall not be billed additionally outside of that agency fee.

(4) An agency may charge and accept payment from the prospective adoptive parent(s) only for reasonable, and actual outstanding adoption related expenses of the pre-existing parent(s) which are itemized outside of any agency fee for service except as described in Section 5 below. These expenses [and] are limited to the following:

(a) additional counseling;

(b) adoption related legal fees to utilize an independent attorney for the adoption;

(c) maternity expenses limited to pregnancy related clothing, pre-natal vitamins, other non-medical pregnancy related needs;

(d) medical and hospital expenses limited to pregnancy and childbirth related medical expenses for the mother/child; and

(e) temporary living expenses limited to the duration of the pregnancy and confinement of the pre-existing parent(s) or directly affected person and include only:

(i) food;

(ii) transportation including bus passes, gasoline, car maintenance, car payments, and taxi/ride share services;

(iii) housing;

(iv) utilities and telephone;

(v) reasonable and minimal incidentals;

(vi) sufficient apparel for the weather and circumstances;

(vii) daily living household supplies;

(viii) travel between the mother's or father's home and the location where the child will be born or placed;

(f) any other expense not explicitly outlined in this rule shall be reasonably related to the adoption, incurred for a reasonable amount and not paid for the purpose of inducing a birth parent to place the child for adoption. If such fees are charged or paid, the agency shall notify the Office of Licensing. [not be charged or paid without providing written agreement and justification approved by the prospective adoptive parent(s), and either the Office of Licensing or the Court.]

(5) An agency may charge an adoptive or potential adoptive parent(s) for either the actual adoption related expenses in regard to the pre-existing parent(s) and directly affected individuals or a fixed amount estimate of adoption related expenses.

(a) the agency must disclose whether their adoption related expenses charged are actual or estimated and share the agency policy on refunds or re-appropriation prior to charging adoptive parent(s).

(b) If the agency charges the actual adoption expenses they must still be capped at the maximum amount outlined in the disclosure. Any over-collected actual expenses must be reimbursed.

(c) If the agency charges a fixed amount for adoption related expenses, it must be outlined in the disclosure and capped at that amount. It shall be disclosed whether or not the flat adoption related expenses are or are not refundable in the disclosure.

(d) [e]Over collection of adoption related expenses that are not refunded is only permissible with estimated adoption related expenses if:

(i) any overage will be used to support the adoption related expenses of another adoption;

(ii) adoptive parent(s) are informed in advance that their payments could contribute to the support of other pre-existing parent(s); and

(iii) any over-collected adoption related expenses are never to be used for the benefit of the agency or anyone associated with the licensee or as a payment to a pre-existing parent(s), and may only be used for other documented pre-existing parent(s) adoption related expenses.

(6) A child placing adoption agency shall provide a written disclosure statement of all agency fees and fixed or estimated adoption related expenses that prospective adoptive parent(s) may incur before the agency accepts any payments, or enters into any agreement with the prospective adoptive parent(s).

(a) The written disclosure shall identify and itemize:

(i) each fee and the services associated with each fee; and

(ii) each adoption-related expense.

(b) If providing only a fee range, additionally provide the average cost for each itemized fee and each adoption-related expense for the preceding two fiscal years, and the maximum amount that may be charged for each fee and adoption related expense.

(c) The written disclosure shall identify any fee that is non-refundable.

(d) The written disclosure shall be signed and dated by the prospective adoptive parent(s) and an agency representative and maintained in the adoptive parent(s) file.

(7) An agency shall not charge prospective adoptive parent(s) for any fees or adoption related expenses that the client obtained independently or were paid for by another entity, including any public assistance.

(8) An agency shall not charge adoptive parent(s) for any fee that was not included in the written disclosure without providing written agreement and justification approved by the prospective adoptive parent(s), and either the Office of Licensing or the Court.

(9) An agency shall not directly or indirectly offer, give, or attempt to give money or another thing of value in order to induce or influence pre-existing parent(s) in the adoption process.

(10) The agency shall retain documentation for any adoption related expense exceeding twenty five dollars, which may include receipts, lease agreements, signed fund transfers to pre-existing parent(s) in reasonable amounts in order to cover basic daily needs such as food and household supplies, and any other pertinent documentation.

(11) An agency shall not charge the adoptive parent(s) for the temporary living expenses of any person other than the pre-existing parent(s) or directly affected persons.

(12) An agency shall not charge the adoptive parent(s) for any expenses that are post-confinement, with the exception of post-placement counseling if agreed upon.

(13) A birth mother who decides not to place her child shall not be responsible for reimbursing the costs of any goods or services provided to her by the prospective adoptive parent(s) or the child placing adoption agency during her pregnancy unless they are first convicted of fraud.

(14) Child placing adoption agencies that provide or pay for pre-existing parent(s)' transportation to the State of Utah shall also ensure that the pre-existing parent(s)' return transportation to their home state is provided, regardless of whether the pre-existing parent(s) decides to relinquish parental rights.

(15) The agency shall create an affidavit of itemized accounting of the actual fees and adoption related expenses paid by the adoptive parent(s).

(a) The agency shall utilize an affidavit form provided by the Office of Licensing or a form inclusive of the Office's form content.

(b) The affidavit shall be executed as follows:

(i) a copy shall be signed by the adoptive parent(s);

(ii) all adoption related expenses shall be itemized and ~~signed upon receipt by the pre-existing parent(s);~~ include ~~ing~~ a declaration that Section 76-7-203 has not been violated;

(A) itemized expenses in the affidavit shall align with those verified by pre-existing parents in R501-7-11(3)(n);

(iii) the affidavit shall include a declaration of all gifts, property, or other items that have been or will be provided to the pre-existing parent(s), including the source of the gifts, property or other items;

(iv) the affidavit shall include a declaration of the state of the residence of the pre-existing parent(s) and the prospective adoptive parent(s);

(v) the affidavit shall include a declaration of all public funds used for any medical or hospital costs in connection with the pregnancy, delivery of the child, or care of the child; and

(vi) the affidavit shall include the signature of an agency representative with adequate knowledge to verify the contents of the affidavit are accurate and complete.

R501-7-7. Services to Pre-existing Parents.

(1) The Division of Child and Family services shall comply with 62A-4a and R512 in regards to services provided to pre-existing parent(s), including disclosing all allowable adoptive parent(s) information to the birth family, except as governed by R512-41-11 for the Division of Child and Family Services.

(2) Child placing adoption agencies other than the Division of Child and Family Services shall:

(a) offer pre-existing parent(s) all available allowable adoptive parent(s) information unless waived in full or part by the pre-existing parent(s) as early in the matching process or consent to adopt process as reasonable;

(b) per 78B-6-119, accept voluntary relinquishments only after offering a minimum of three sessions of adoption related counseling to any person who is considering relinquishing a child for adoption prior to accepting the consent or relinquishment. This counseling shall include at a minimum:

(i) parental rights prior to relinquishments;

(ii) alternative options for the child and pre-existing parent(s); and

(iii) adoption issues including grief/loss;

(c) provide complete and accurate information to the pre-existing parent(s) regarding their decision to consent to adopt or relinquish;

(d) meet in-person, via video, or via telephone with the pre-existing parent(s) to review the designated adoption orientation form provided by the Office;

(i) pre-existing parent(s) will be given the opportunity for questions/clarifications before initialing and signing the document;

(ii) a pre-existing parent(s) under the age of 18 shall meet privately with the adoption worker unless they waive the option to meet privately;

(e) ensure the written consent to relinquishment includes language acknowledging that the pre-existing parent(s) was afforded adoption related counseling, and that the relinquishment is completely voluntary, permanent and irrevocable once signed under Utah Law;

(i) a child placing adoption agency shall wait at least 24 hours after the birth of a child before taking the birth mother's relinquishment of parental rights or legal consent to the adoption of her child, in accordance with Section 78B-6-125 or the laws of the state governing the relinquishment.

(3) If an agency arranges housing for pre-existing parents, assure that such housing complies with the following minimum standards:

(a) housing is in compliance with health, fire, zoning, and other applicable laws and regulations;

(b) if the housing meets the definition of Residential Support (R501-22) the agency shall obtain a Residential Support license through the Office of Licensing;

(c) housing is clean, well-maintained and adequately furnished;

(d) birth mothers shall not share bedrooms with other birth mothers;

(e) laundry equipment and supplies shall be available; and

(f) adequate nutritious food, or resources to obtain food, is available.

(7) The agency shall be responsible to encourage and facilitate prenatal and medical care of the birth mother.

(8) A child placing agency shall inform pre-existing parent(s) of their information that will be shared with adoptive parent(s) including their detailed health history and a genetic and social history in accordance with Section 78B-6-143.

(9) A child placing adoption agency shall inform pre-existing parent(s) of Utah's Mutual Consent Voluntary Adoption Registry, Section 78B-6-144.

(10) A child placing adoption agency ~~may~~ shall assist the birth and adoptive parent(s) in creating a post-placement contact agreement, including:

(a) whether the birth parent wants to disclose their identity to the adoptee or the adoptive family;

(b) contact about or from the child or parents, directly or indirectly, in the future and how that will occur;

(c) that such agreements are non-binding except in certain public child welfare cases; and

(d) Contact agreements shall be updated only when initiated by the previous clients and maintained in case file records.

R501-7-8. Services to Children.

(1) Assessment.

(a) A needs assessment for the child shall be completed to obtain information and identify characteristics which should be given consideration in selecting and preparing a child for an adoptive family and promote appropriate placement for the child.

(b) The needs of the child will be determined through this assessment and shall evaluate for high needs or special needs as defined in this chapter.

(c) A report(s) regarding all assessment information shall be given to the adoptive parent(s) prior to placement.

(d) If the child is an infant that is not defined as special needs or high need, information shall be obtained from the pre-existing parent(s) and any legal guardian to include all allowable child/pre-existing parent(s) information as defined in this chapter. This information should include:

(i) If the child is older than six months the same information from Section 2 above, shall be obtained from the birth or legal parent;

(ii) additional information shall be obtained using an interdisciplinary approach which may include input from: caseworkers, therapists, pediatricians, teachers, previous caregivers, foster parents, nurses, psychologists, and other consultants.

(e) The assessment shall additionally include:

(i) information pertaining to changes in caregivers including foster care, separation experiences and description of the child's behaviors;

(ii) all evaluations regarding a child's development including: physical, social, emotional, mental health and cognitive;

(iii) the child's educational records, and any special educational needs;

(iv) talents and interests; and

(v) if the child is identified as having special needs or is a high needs child as defined in [62A-4a-601], specific training for prospective adoptive parent(s) is statutorily mandated.

(2) Recruitment of adoptive families.

(a) Child placing adoption agencies shall recruit adoptive families that are able to meet the needs of children the agency serves.

(b) If the family states they would be open to a child with special needs or high needs, they will complete training specific to identified needs and in compliance with 62A-4a-601-9-2.

(3) Matching.

(a) The selection of the adoptive family and the adoptive family's decision to adopt a specific child shall be based on the following:

(i) the child's assessment;

(ii) adoptive family's ability to meet the identified and potential needs of the child;

(iii) the wishes of the pre-existing parent(s) who voluntarily relinquish their rights, the adoptive parent(s), and when applicable, the child, shall be considered.

(4) Placement.

(a) A child placing adoption agency shall attempt to place siblings together when appropriate for the children's needs and pre-existing parent(s) wishes.

(b) A child shall be placed with the adoptive family at the earliest time possible after being freed for placement or adoption.

(c) A child placing adoption agency shall have an individualized written adoptive placement and transition plan that includes the child's current caregivers, the adoptive parent(s), and the child, to facilitate the child's transition into the adoptive family and ensures the family's ability to meet the child's needs.

(i) The transition plan shall consider and include as applicable:

(A) the child's stated preferences;

(B) the child's identified religion;

(C) identification of services the family and child may need based on assessment information;

(D) statement of who is responsible for identifying services and who is responsible for paying for such services;

(E) time frames for transition that consider and accommodate the identified and potential needs of the child in preparing the child for placement; and

(F) developmentally appropriate counseling with the child to address to mitigate transition related emotional trauma.

(d) If a child placing adoption agency other than DCFS assumes custody of a child and the child is not able to be directly placed in an adoptive placement:

(i) the agency may temporarily place the child in a currently home studied adoptive home for up to 30 days; or

(ii) if the child needs temporary care for more than 30 days, the agency shall contract with a licensed foster care program or obtain a license to provide foster care services for children in its custody, in accordance with R501-12.

(e) A private child placing adoption agency shall obtain a copy of the foster home or facility license prior to placing a child, and shall retain the license in the child's case file.

(f) If a child is not placed within 30 days after relinquishment or after determination of availability for adoption by the court, the agency shall document its efforts to screen the child with other child placing agencies and shall list the child with local, regional, and inter-state adoption exchanges

(5) Post Placement Service.

(a) The child placing agency shall monitor and support each placement until the adoption is final.

(b) An agency social worker shall contact the adoptive family within 2 weeks of the placement to offer support. This does not count towards the pre-finalization visit.

(c) Prior to finalization, a minimum of one in-home supervisory visit with both parents and child present shall be made by an agency social worker:

(i) to assess that the child and family are adjusting and child is receiving necessary care, nurturance, medical care, and services as needed.

(d) The agency shall monitor who has legal and physical responsibility for the child at all times.

(6) Disruption.

(a) If a disruption occurs, a child placing agency shall provide for the care of the child.

(i) The placement shall:

(A) be in a currently home studied adoptive home for no longer than 30 days unless it is the identified subsequent adoptive placement;

(B) be in a licensed or certified foster home governed by Rule R501-12; or

(C) be approved by a judge.

R501-7-9. Services to Adoptive Parents.

(1) The Division of Child and Family services shall comply with 62A-4a and R512 in regards to services provided to adoptive parent(s), including disclosing all allowable child/pre-existing parent(s) information to the prospective adoptive family.

(2) A child placing adoption agency other than the Division of Child and Family Services shall:

(a) provide the adoptive parent(s) orientation form to potential adoptive parent(s) who shall sign and initial the form and

shall be offered the opportunity to ask clarifying questions prior to match or payment of any fees in excess of \$500.00;

(i) adoptive parent(s) will be given the opportunity for questions/clarifications before initialing and signing the document;

(b) provide prospective adoptive parent(s) with a written description of their services, fees, policies and procedures;

(c) explain the adoption process and the pre-existing parent(s)' rights, including the status of any putative father, to the prospective adoptive parent(s);

(i) a copy of the Office provided pre-existing parent(s) adoptive orientation form shall be provided to adoptive parent(s) for information purposes with an acknowledgement that they have discussed and received this information;

(d) provide training as outlined in 62A-4a-609 in regards to high needs child, as required;

(e) per 62A-4a-607 the agency shall inform each prospective adoptive parent(s) that the state has children available for adoption and that adoption from the Division of Child and Family Services incurs no agency fees and adoption assistance may be available when adopting children in the custody of the state;

(f) inform adoptive parent(s) that when a child has a disability, the child may be eligible for SSI benefits and/or federal adoption assistance. The Agency shall refer the potential adoptive parent(s) to coordinate with the Division of People with Disabilities for further disability resources and with Division of Child and Family Services to apply for potential federal adoption assistance; and

(g) a child placing adoption agency shall inform [~~pre-existing~~]prospective adoptive parent(s) of Utah's Mutual Consent Voluntary Adoption Registry, Section 78B-6-144.

(3) A home study completed by an adoption service provider as outlined in 78B-6-128-2(C) for each adoptive family shall include:

(a) a recommendation to the court regarding the suitability of the prospective adoptive parent(s) or placement of a child;

(b) a description of in-person interviews with the prospective adoptive parent(s), prospective adoptive parent(s), children, and other individuals living in the home;

(c) criminal background and child abuse screening of adoptive applicants and other adults living in the home in accordance with R501-14, [~~R501-18;~~] and Sections 53-10-108(4) and 78B-6-128;

(i) agencies must separately obtain the child abuse registry report through the Division of Child and Family Services in Utah and any out of state comparable entities in order to show compliance with 78B-6-128;

(d) written descriptions from at least two non-related and one related references regarding the character and suitability of the prospective adoptive parent(s) for parenting an adoptive child;

(e) a medical history and a doctor's report, based upon a doctor's physical examination of each applicant, made within two years prior to the date of the application;

(f) description of inspections of the home, to determine whether sufficient space and facilities exist to meet the needs of the child and whether basic health and safety standards are maintained; and

(g) description of documented income for each adoptive applicant and a written plan for adoptive applicants who work outside the home addressing how they shall provide security and responsible child care to meet individual child needs.

(4) The adoptive applicants shall be informed, in writing, and within ten business days after the decision is made, as to the acceptance or the reasons for the denial of their home study.

(a) The agency shall provide applicants with a written copy of the agency's appeal process, which shall include the right to submit a written appeal and request for reconsideration, upon order of the court in accordance with Section 78B-6-128.

(5) A child placing adoption agency shall select applicants who:

(a) are able to provide the continuity of a caring relationship;

(b) are informed with regard to a child's ethnic, religious, cultural, and racial heritage; and

(c) understand the needs of a child at various developmental stages.

(6) The agency's policies regarding the consideration of religion and marital status in the selection of adoptive families shall be clearly stated in its initial consultation with prospective adoptive parent(s). This disclosure shall also be clearly stated in writing on the adoptive parent(s)' application for services forms.

(7) The agency shall verify that an applicant's income is sufficient to provide for a child's needs.

(8) The agency shall not reject an applicant solely based upon the applicant's choice to work outside the home. Applicants who work outside the home shall provide a written plan describing how they shall provide security and responsible child care to meet the individual child's needs.

(9) Except when authorized by court order pursuant to Section 78B-6-128, a child placing adoption agency shall not place a child in an adoptive home until the home study and each adult's criminal and abuse background screenings have been approved.

(10) Matching.

(a) Disclose all allowable child/pre-existing parent(s) information to the prospective adoptive family.

(b) Ensure known special needs are disclosed and referrals and information are provided as necessary to prepare the family to meet the long term needs of the child.

(c) A child placing adoption agency shall not make a legal risk placement unless the prospective adoptive parent(s) have first given their written consent, indicating that they have been fully informed of the specific risks involved.

(d) Develop the capacities of the parents to meet the ongoing needs of the child according to the child's needs and the transition plan.

(e) Matches may only occur once sufficient non-identifying information sharing has occurred to allow for informed decision making by both parties.

(11) Placement.

(a) A child placing adoption agency shall provide continuing support to the child and the adoptive family after placement and before finalization of the adoption, to include:

(i) providing or making referrals to services such as counseling, crisis intervention, respite care, and support groups; and

(ii) monitoring the child's adjustment and development.

(b) The frequency of home visits, office contacts, telephone calls, and other contacts by the child placing adoption agency shall depend on the needs of the child and the adoptive family and may vary depending whether the child is an infant, an older child, or a child with

medical or other challenges, and whether the adoptive parent(s) are faced with unanticipated problems.

(c) The first contact after placement shall take place within two weeks of placement.

(d) A minimum of one face-to-face supervisory home visit after the initial two week contact shall take place before finalization.

(12) Disruption.

(a) The agency may remove the child for the adoptive placement due to circumstances that may impair the child's security in the family or jeopardize the child's physical and emotional development, including but not limited to incompatibility; mental illness; seriously incapacitating illness; the death of one of the adoptive parent(s); the separation or divorce of the adoptive parent(s); the abuse, neglect, or rejection of the child; the lack of attachment to the child; or a request by the adopting parents to remove the child.

(b) If a child is removed from an adoptive home by a child placing adoption agency, the adoptive parent(s) shall be entitled to appeal the removal decision.

(i) The agency shall provide the adoptive parent(s) written notice of their right to appeal and the procedure for appeal.

(13) Finalization.

(a) A child placing adoption agency shall provide assistance in finalizing the adoption.

R501-7-10. Intercountry Adoptions.

(1) All intercountry adoptions are considered high needs per 62A-4a-601 and require compliance with 62A-4a-609.

(2) In addition to complying with all other rules, laws and statutes regarding adoption, a child placing adoption agency that is a primary provider of inter-country placement services shall document that it has complied with all applicable laws and regulations of the United States and the child's country of origin, and including:

(a) the agency is Hague accredited by a Department of State approved accrediting body;

(b) the child is legally freed for adoption in the country of origin;

(c) the agency verifies and maintains documentation and agreements regarding the credentials and qualifications of all associates working in their behalf in foreign countries; and

(d) information was provided to the adopting parents about naturalization and US citizenship proceedings.

(3) A child placing adoption agency that provides intercountry adoption services shall:

(a) comply with all fee requirements from R501-7-6;

(b) establish additional policies and procedures to be provided to the adoptive parent applicant(s) regarding:

(i) agency and adoptive parent(s) responsibilities regarding intercountry adoption;

(ii) post adopt responsibilities;

(iii) identification and disclosure of medical risks in [international]intercountry adoption;

(iv) service planning; and

(v) establish an official and recorded method of fund transfers to avoid the use of direct cash transactions to pay for adoption services in other countries;

(c) additionally include in the written agency fee disclosure required in R501-7-6 the following:

(i) itemization of all services and total cost of providing adoption in the child's country of origin and disclosure of whether the fees are paid directly or through the agency to include:

(A) foreign country/legal fees;

(B) cost of documents required by the agency and by the foreign government as well as costs of apostille or authentication of these documents;

(C) required fees paid to USCIS;

(D) estimated costs of travel to the foreign country;

(E) translation of documents provided to the foreign adoption officials;

(F) costs of child care;

(G) parent education costs;

(H) adopted child passport;

(I) USCIS-required medical exam costs;

(J) immunization expenses; and

(K) any other miscellaneous fees that may apply;

(ii) itemization of any mandatory payments to child welfare programs in the country of origin including:

(A) any fixed contributions amounts;

(B) intended use of payments; and

(C) manner in which the transaction will be recorded and accounted for;

(d) provide all applicants with written policies governing refunds;

(e) notify adoptive applicants within ten business days when information is received that a foreign country is suspending its adoption program;

(f) verify and maintain documentation regarding the credentials and qualifications of agents working in their behalf in foreign countries; and

(g) in addition to adoptive parent(s) and child file content requirements in R501-7-11, intercountry adoption files shall also include:

(i) signed agency agreements and/or contracts;

(ii) USCIS approval to proceed with a foreign adoption;

(iii) copies of adoption documents required by the adoption officials in the foreign country;

(iv) copies of all child information provided by the foreign country;

(v) post-adoption reports required by the foreign country; and

(vi) copy of the adoption finalization from the foreign country.

R501-7-11. Administrative Documentation.

(1) Provisions of this section do not apply to the Division of Child and Family Services as they governed by their own rules, statutes, and documentation requirements that are more restrictive and extensive than those outlined here, including 78A-6-306 Shelter Hearing, 307 Placement, 310 Adjudication hearing, 312 Reunification services, 314 Permanency hearing and 316 Termination of parental rights.

(2) Adoptive Parent(s) Files shall cross-reference all related files and shall contain:

(a) signed and dated application for service including agency disclosure of religion and marital status polices on the application;

(b) signed and dated adoptive parent(s) adoptive orientation form as required and provided by DHS Office of Licensing;

(c) proof that the content of the pre-existing parent(s) adoption orientation form was provided to adoptive parent(s);

(d) proof of compliance with 62A-4a-607 regarding the availability of children in state custody for adoption;

(e) itemized written fee disclosure statement as described in Section R501-7-6 signed and dated by prospective adoptive parent(s) and agency representative prior to entering any agreements as outlined in;

(f) proof of identification or documented due diligence to determine identity;

(g) copies of marriage certificates, divorce papers, custody and visitation orders, proof of US citizenship;

(h) proof that all allowable child/pre-existing parent(s) information was shared with adoptive parent(s);

(i) voluntary consent agreement acknowledging conflict of interests per R501-7-4 (A);

(j) documentation and itemization of all reasonable and actual adoption-related expenses that exceed \$25.00 charged to the adoptive parent(s) as outlined in R501-7-6 to include:

(i) written agreement and justification for any expenses charged to the prospective adoptive parent(s) outside the fee disclosure statement;

(ii) affidavit signed by adoptive parent(s) and agency representative outlining itemized actual expenditures made on behalf of the pre-existing parent(s) as outlined in fees disclosures section R501-7-6;

(k) record of all payments received and disbursements made;

(l) home study/pre placement evaluation as outlined in R501-7-9 and 78B-6-128;

(i) and including a child abuse registry report obtained from all applicable child welfare agencies per R501-7-9(3)(c)(i);

(m) case notes describing all services provided;

(n) physician report for each prospective adoptive parent;

(o) background clearances for prospective adoptive parent(s) and all adults over age 18 residing in the home;

(p) proof of ability to provide health care for an adopted child;

(q) 4 letters of reference;

(r) documentation of all requests for information or sharing of information to include:

(i) post adopt information exchange with pre-existing parent(s); and

(ii) post adopt contact terms with pre-existing parent(s);

(s) transition plan for child transition to adoptive placement;

(t) written consent to legal risk placement if applicable;

(u) documentation of the initial agency contact with the adoptive family within 2 weeks of placement;

(v) documentation of one in-home face-to-face supervisory visit prior to finalization post two week visit;

(w) original or certified copy of the order of adoption; ~~and~~

(x) referral to Mutual Consent Registry;

(y) signed declaration of each potential birth father to be filed with the court per 78B-6-110.5; and

~~(z)~~ any other documentation required in order to show compliance with this Rule.

(3) Pre-existing parent(s) files shall cross reference all related files and shall contain:

(a) signed and dated application for service to include declaration of birth mother's husband or ~~paramour's~~ any alleged father's relationship to the child in accordance with 78B-6-110.5;

(b) proof of identification or documented due diligence to determine identity;

(c) signed and dated pre-existing parent(s) adoptive orientation form as required and provided by DHS Office of Licensing;

(d) ~~documentation~~ declaration, certificate or written statement of putative registry search and disclosure of search results from each state identified by the birth mother in compliance with 78B-6-110.5 Sections 1 and 2; and any communications with potential birth fathers;

(e) documentation of any requests for information or sharing of information;

(f) genetic and social history, and health history;

(g) case notes describing services provided including pre relinquishment counseling;

(h) original or certified copies of relinquishment transfer or decree of termination of birth mother and birth father rights per 78B-6-125 (or the state governing relinquishment);

(i) proof that non-identifying information was provided re: the adoptive parent(s);

(j) proof of compliance with 78B-6-143 and 78B-6-144;

(k) copies of marriage certificates, divorce papers, custody and visitation orders, if any;

(l) certified copies of death certificates, if any, of pre-existing parent(s);

(m) pre-existing parent(s) written agreements or refusals of:

(i) waiver of confidentiality;

(ii) authorization of release of information;

(iii) future third party searcher;

(iv) post adopt information exchange with adoptive parent(s);

(v) post adopt contact terms;

(n) verification that all itemized goods and services billed to the adoptive parent(s) were actually provided to and signed upon receipt to the pre-existing parent(s);

(o) documentation of other alternative payment sources, including public assistance; ~~and~~

(p) referral to Mutual Consent Registry; and

~~(q)~~ any other documentation required in order to show compliance with this rule.

(4) Child Files shall cross reference all related files and shall contain:

(a) ~~d~~ needs assessments, evaluations, family background study of current and historical physical, psychological, genetic and developmental health information as required in R501-7-8 A and B;

(b) individualized assessment determining which adoptive family was selected and why as a means to meet all of the identified wishes and needs of all involved;

(c) case notes describing all services provided and referred;

(d) copies of any DHS licenses for children placed in outside agency foster care;

(e) transition plan for child to adoptive placement; and

(f) any other documentation required in order to show compliance with this rule.

(5) File maintenance.

(a) In the event that any records required in this Rule are not obtained, the child placing adoption agency shall provide documentation of its efforts to obtain those records.

(b) All case files shall be retained for a minimum of 100 years from the date the case is closed.

(c) If not continuing to operate and incapable of maintaining their own files for 100 years, the agency shall notify the Office of Licensing and post publicly where the records shall be stored;

(i) it is permissible for a closed child placing adoption agency to transfer closed adoptive files to another licensed child placing for maintenance as long as the chain of control is clear and transparent to the Office and prior clients, there is good reason to believe that the files will be maintained according to law.

(ii) the agency has a written plan involving a secondary entity for contact and file maintenance in the event that the agency changes ownership or ceases to provide child placement adoption services, and notify the Office of Licensing and each client where the records shall be stored; and

(iii) enable record retrieval by individuals with a right to access them.

(d) All adoption records shall be confidential and shall be maintained in a secure location when not in active use;

(i) adoption records shall be accessible only by authorized agency employees or agents;

(ii) no information shall be shared with any person without the appropriate consent forms, except as required by law.

(e) ~~[Adoption records.]~~ Records regarding the adoptive parents, with the exception of reference letters, are not sealed and information in adoption files can be provided to adoptive parent(s) upon request.

(f) A child placing adoption agency shall maintain and provide accurate annual statistics describing the number of applications received the number of children, pre-existing parent(s), and adoptive parent(s) served, and the number of adoptions and disruptions, and the number of children in agency custody.

~~[(g) Agency must have a written plan involving a secondary entity for contact and file maintenance in the event that the agency changes ownership or ceases to provide child placement adoption services, and notify the Office of Licensing and each client where the records shall be stored;~~

~~(i) it is permissible for a child placing adoption agency to transfer closed adoptive files to another licensed child placing for maintenance as long as the chain of control is clear and transparent to prior clients; and~~

~~(ii) enable record retrieval by individuals with a right to access them.]~~

R501-7-12. Compliance.

(1) A licensee that is in operation on the effective date of this Rule shall be given 60 days to achieve compliance with this Rule.

KEY: licensing, human services, child placing

Date of Enactment or Last Substantive Amendment: 2018

Notice of Continuation: October 18, 2012

Authorizing, and Implemented or Interpreted Law: 62A-2-101 et seq.

Insurance, Administration **R590-276** Record Retention for Foreign, Alien, Commercially Domiciled, Foreign Title and Foreign Fraternal

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 42214

FILED: 02/20/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change in proposed rule is being done to clarify differences in record retention requirements for foreign title transactions and escrow transactions involving real property. It also makes a number of general clarifications and grammatical changes.

SUMMARY OF THE RULE OR CHANGE: This change separates foreign title transactions and escrow transactions involving real property. It retains the 15-year retention requirement for foreign title transactions and clarifies that escrow transactions involving real property have a 3-year retention requirement. These retention periods are consistent with existing Insurance Department policy that is set forth in Subsections 31A-20-110(1) and 31A-23a-412(5), and clarified by Bulletin 2014-6. This rule change also adds a citation to the authority section, streamlines language to make it clearer and more accurate, and makes grammatical changes. (EDITOR'S NOTE: The original proposed new rule upon which this change in proposed rule (CPR) was based was published in the November 1, 2017, issue of the Utah State Bulletin, on page 165. Underlining in the rule below indicates text that has been added since the publication of the proposed new rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-201 and Subsection 31A-14-205.5(5)(a) and Subsection 31A-23a-412(5)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. This rule change merely codifies and clarifies existing practices for licensees in the title and escrow industry. It requires no change in work by the Insurance Department.

◆ **LOCAL GOVERNMENTS:** There is no cost or savings to local governments. This rule change deals with the file retention requirements for title and escrow professionals and has no bearing on local governments.

♦ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. Title and escrow licensees already retain records for 15 and 3 years respectively, so there is no change in how they will be required to do business. This change merely codifies and clarifies existing practices.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to any other persons. Title and escrow licensees already retain records for 15 and 3 years respectively, so there is no change in how they will be required to do business. This change merely codifies and clarifies existing practices.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. Title and escrow licensees already retain records for the length of time described in this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This change in proposed rule is not expected to have any fiscal impacts on large business' revenues or expenditures because title and escrow licensees already retain records for 15 and 3 years respectively, so there is no change in how they will be required to do business. This change merely codifies and clarifies existing practices.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 04/16/2018

THIS RULE MAY BECOME EFFECTIVE ON: 04/23/2018

AUTHORIZED BY: Steve Gooch, Information Specialist

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:			
	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses
 This change in proposed rule is not expected to have any fiscal impacts on large businesses revenues or expenditures because title and escrow licensees already retain records for 15 and 3 years respectively, so there is no change in how they will be required to do business. This change merely codifies and clarifies existing practices.

Todd E. Kiser, the head of the Insurance Department, has reviewed and approved this fiscal analysis.

R590. Insurance, Administration.
R590-276. Record Retention for Foreign Insurers, Alien Insurers, Commercially Domiciled Insurers, Foreign Title Insurers and Foreign Fraternal.
R590-276-1. Authority.

This rule is promulgated pursuant to Subsections 31A-2-201, ~~and~~ 31A-14-205.5(5)(a), and 31A-23a-412(5), which authorize the commissioner to adopt a rule to specify the length of time a foreign insurer, alien insurer, commercially domiciled insurer, foreign title insurer, or foreign fraternal must ~~keep~~ maintain books and records for ~~purposes of review~~ inspection by the ~~insurance department~~ commissioner.

R590-276-2. Scope.

This rule applies to all foreign insurers, alien insurers, commercially domiciled insurers, foreign title insurers, and foreign fraternal licensed to do business in Utah.

R590-276-3. Purpose.

The purpose of this rule is to notify ~~[and clarify to]~~ foreign insurers, alien insurers, commercially domiciled insurers, foreign title insurers and foreign fraternal of the books and records retention requirements~~[for purposes of examination by the Utah Insurance Department].~~

R590-276-4. Retention Requirements.

(1) Except as provided in Subsection (2), the retention requirement for the books and records of an insurer or fraternal subject to Title 31A, Chapter 14, Foreign Insurers, [For all insurers under Subsection 31A-14-101 through Subsection 31A-14-217, except foreign title, the books and record retention requirement] is three years plus the current year.

(2)(a) ~~[For all foreign]~~The retention requirement for foreign title insurers[, the] books and records, including records related to title search, examination and underwriting used for determining insurability, [retention requirement] is 15 years,~~[per]~~ pursuant to Subsection 31A-20-110(1).

(b) The retention requirement for books and records related to escrow transactions involving real property is 3 years plus the current year, pursuant to Section 31A-23a-412(5).

(3) All ~~[licensees under this subsection shall make the]~~ books and records shall be made available during normal business hours.

(4) Nothing in this section prohibits electronically stored books and records.

R590-276-5. Enforcement Date.

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

R590-276-6. Severability.

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

KEY: insurance, record retention

Date of Enactment or Last Substantive Amendment: ~~[December 8, 2017]~~**2018**

Authorizing, and Implemented or Interpreted Law: **31A-2-201; 31A-14-205.5(5)(a); 31A-23a-412(5)**

End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <https://rules.utah.gov/>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

Education, Administration **R277-518** Career and Technical Education Licenses

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42618
FILED: 02/26/2018

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 the Utah Constitution, Article X, Section 3, which vests general control and supervision of public education in the State Board of Education (Board), Section 53A-6-104 permits the Board to issue licenses for educators, and Subsection 53A-1-401(3) allows the Board to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it specifies standards for a Career and Technical Education (CTE) license area and endorsements. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

EFFECTIVE: 02/26/2018

Education, Administration **R277-610** Released-Time Classes and Public Schools

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42621
FILED: 02/26/2018

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-402(1) directs the State Board of Education (Board) to adopt minimum

standards for public schools, and Subsection 53A-1-401(3) permits the Board to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R277-610 continues to be necessary because it specifies standards and procedures for public schools regarding released-time classes. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

EFFECTIVE: 02/26/2018

the Board to adopt rules for the distribution of funds for the education of youth in custody, and Subsection 53A-1-401(3) allows the Board to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R277-709 continues to be necessary because it specifies operation standards, procedures, and distribution of funds for youth in custody programs. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

EFFECTIVE: 02/26/2018

Education, Administration
R277-709

Education Programs Serving Youth in
Custody

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42619
FILED: 02/26/2018

**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 the Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the State Board of Education (Board), Subsection 53A-1-403(2)(b) requires

Education, Administration
R277-719

Standards for Selling Foods Outside of
the Reimbursable Meal in Schools

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42620
FILED: 02/26/2018

**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: Rule R277-719 is authorized by the Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the State Board

of Education (Board), Subsection 53A-1-401(3) allows the Board to adopt rules in accordance with its responsibilities, Subsection 53A-19-201(1) allows the Board to set standards relating to the use of school lunch revenues, and Subsection 53A-1-402(1)(e) requires the Board to establish rules concerning school productivity and cost effectiveness measures and federal programs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R277-719 continues to be necessary because it outlines requirements for Local Education Agency (LEA) policies regarding foods sold outside of the reimbursable meal service. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

EFFECTIVE: 02/26/2018

**Labor Commission, Administration
R600-1
Declaratory Orders**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 42622
FILED: 02/26/2018

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 63G-4-503(2) requires all agencies, including the Labor Commission (Commission), to issue rules for declaratory proceedings and orders.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received during or since the last five-year review of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: As required by Subsection 63G-4-503(2), this rule provides the procedures for submission, review, and disposition of petitions for agency declaratory orders on the applicability of statutes, rules, and orders governing or issued by the Commission. Therefore, this rule should be continued.

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

LABOR COMMISSION
ADMINISTRATION
HEBER M WELLS BLDG
160 E 300 S
SALT LAKE CITY, UT 84111-2316
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Christopher Hill by phone at 801-530-6113, by FAX at 801-530-6390, or by Internet E-mail at chill@utah.gov

AUTHORIZED BY: Jaceson Maughan, Commissioner

EFFECTIVE: 02/26/2018

**Natural Resources, Wildlife Resources
R657-3
Collection, Importation, Transportation,
and Possession of Animals**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 42624
FILED: 02/27/2018

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 23-14-18 and 23-14-19, the Wildlife Board is authorized and required to regulate and prescribe the means to allow the collection,

importation, exportation, transportation, and possession of animals and their parts.

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 R657-3 were received since March 2013 when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-3 governs the collection, importation, exportation, transportation, and possession of animals and their parts. 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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Mike Fowlks, Deputy Director

EFFECTIVE: 02/27/2018

**Regents (Board of), University of Utah,
 Administration
 R805-1
 Operating Regulations for Bicycles,
 Skateboards, Rollerskates and
 Scooters (Non-Motorized Riding
 Devices)**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 42617
 FILED: 02/22/2018

**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 53B-2-106 authorizes Rule R805-1 by authorizing the president of each higher educational institution, with approval of the relevant board of trustees, to enact rules for the administration and operation of the institution. Section 53B-3-101 authorizes Rule R805-1 by allowing the Board of Regents to pass rules and regulations governing parking and traffic on campuses and to enforce the rules and regulations by all appropriate methods. Section 53B-3-101 further allows the Board of Regents to delegate this same authority to the president of each institution so long as the relevant board of trustees approves.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The University of Utah's ability to ensure the safety of all persons on campus has been facilitated by Rule R805-1. Rule R805-1 regulates the operation of bicycles, skateboards and scooters on campus and provides clear standards on the proper operation of these means of transportation. Rule R805-1 further gives the University of Utah the ability to sanction students, staff, faculty and visitors who are in violation of this rule. The University of Utah has approximately 30,000 students and 17,000 employees who live/work/study together in a small geographic area. The use of bicycles, skateboards, and scooters on and around campus is very common and Rule R805-1 gives the University of Utah meaningful tools for the regulation of this type of traffic which enhances the safety of the University community. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 REGENTS (BOARD OF)
 UNIVERSITY OF UTAH, ADMINISTRATION
 ROOM 309 PARK BLDG
 201 S PRESIDENTS CIR
 SALT LAKE CITY, UT 84112-9009
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Robert Payne by phone at 801-585-7002, by FAX at 801-585-7007, or by Internet E-mail at robert.payne@legal.utah.edu

AUTHORIZED BY: Robert Payne, Associate General Counsel

EFFECTIVE: 02/22/2018

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Agriculture and Food

Regulatory Services

No. 42422 (R&R): R70-940. Standards and Testing of Motor Fuel

Published: 01/15/2018

Effective: 02/22/2018

Education

Administration

No. 42394 (AMD): R277-705. Secondary School Completion and Diplomas

Published: 01/01/2018

Effective: 02/28/2018

Human Services

Administration

No. 42417 (AMD): R495-885. Employee Background Screenings

Published: 01/15/2018

Effective: 02/23/2018

Administration, Administrative Services, Licensing

No. 42216 (AMD): R501-1. General Provisions for Licensing

Published: 11/01/2017

Effective: 02/23/2018

No. 42217 (AMD): R501-12. Foster Care Services

Published: 11/01/2017

Effective: 02/23/2018

No. 42233 (AMD): R501-14. Human Service Program

Background Screening

Published: 11/01/2017

Effective: 02/23/2018

Natural Resources

Parks and Recreation

No. 42431 (AMD): R651-406. Off-Highway Vehicle Registration Fees

Published: 01/15/2018

Effective: 02/21/2018

Public Service Commission

Administration

No. 42424 (NEW): R746-8. Utah Universal Public Telecommunications Service Support Fund (UUSF)

Published: 01/15/2018

Effective: 02/21/2018

No. 42423 (REP): R746-341. Lifeline Rule

Published: 01/15/2018

Effective: 02/21/2018

No. 42425 (REP): R746-343. Rule for Deaf, Severely Hearing or Speech Impaired Person

Published: 01/15/2018

Effective: 02/21/2018

No. 42426 (REP): R746-360. Universal Public Telecommunications Service Support Fund

Published: 01/15/2018

Effective: 02/21/2018

Workforce Services

Administration

No. 42421 (NEW): R982-800. Utah Data Research Center

Published: 01/15/2018

Effective: 03/01/2018

**RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2018 through March 01, 2018. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to the Office of Administrative Rules (801-538-3003).

A copy of the **RULES INDEX** is available for public inspection at the Office of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Office's web site (<https://rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Facilities Construction and Management</u>					
R23-5	Contingency Funds	42347	AMD	01/23/2018	2017-24/8
R23-9	Cooperation with Local Government Planning	42348	AMD	01/23/2018	2017-24/9
<u>Finance</u>					
R25-5	Payment of Meeting Compensation (Per Diem) to Boards	42570	5YR	02/08/2018	2018-5/141
R25-6	Relocation Reimbursement	42571	5YR	02/08/2018	2018-5/141
R25-7	Travel-Related Reimbursements for State Employees	42572	5YR	02/08/2018	2018-5/142
R25-8	Overtime Meal Allowance	42573	5YR	02/08/2018	2018-5/142
AGRICULTURE AND FOOD					
<u>Plant Industry</u>					
R68-5	Grain Inspection	42530	5YR	01/30/2018	2018-4/95
R68-5	Grain Inspection	42531	NSC	02/27/2018	Not Printed
<u>Regulatory Services</u>					
R70-940	Standards and Testing of Motor Fuel	42422	R&R	02/22/2018	2018-2/6
ATTORNEY GENERAL					
<u>Administration</u>					
R105-2	Records Access and Management	42367	AMD	02/07/2018	2018-1/2
COMMERCE					
<u>Occupational and Professional Licensing</u>					
R156-31b	Nurse Practice Act Rule	42448	5YR	01/08/2018	2018-3/69
R156-46b-401	In General	42428	NSC	01/18/2018	Not Printed
R156-55b-102	Definitions	42429	NSC	01/18/2018	Not Printed
R156-68	Utah Osteopathic Medical Practice Act Rule	42447	5YR	01/08/2018	2018-3/70
R156-72	Acupuncture Licensing Act Rule	42338	AMD	01/23/2018	2017-24/11
R156-78-502	Unprofessional Conduct	42243	AMD	01/02/2018	2017-22/28
EDUCATION					
<u>Administration</u>					
R277-469	Instructional Materials Commission Operating Procedures	42322	AMD	01/09/2018	2017-23/4
R277-490	Beverley Taylor Sorenson Elementary Arts Learning Program (BTSALP)	42471	5YR	01/12/2018	2018-3/70

R277-491-4	School Community Council Principal Responsibilities	42323	AMD	01/09/2018	2017-23/9
R277-515	Utah Educator Professional Standards	42324	AMD	01/09/2018	2017-23/11
R277-518	Career and Technical Education Licenses	42618	5YR	02/26/2018	Not Printed
R277-519	Educator Professional Learning Procedures and Credit	42325	AMD	01/09/2018	2017-23/16
R277-530-3	Board Expectations for Effective Teaching, Educational Leadership, and Educational School Counselor Standards	42439	NSC	01/25/2018	Not Printed
R277-610	Released-Time Classes and Public Schools	42621	5YR	02/26/2018	Not Printed
R277-621	District of Residence	42326	NEW	01/09/2018	2017-23/17
R277-705	Secondary School Completion and Diplomas	42394	AMD	02/28/2018	2018-1/5
R277-709	Education Programs Serving Youth in Custody	42619	5YR	02/26/2018	Not Printed
R277-719	Standards for Selling Foods Outside of the Reimbursable Meal in Schools	42620	5YR	02/26/2018	Not Printed
R277-920	Implementation of the School Turnaround and Leadership Development Act	42327	AMD	01/09/2018	2017-23/19

ENVIRONMENTAL QUALITY

Air Quality

R307-102	General Requirements: Broadly Applicable Requirements	42546	EXT	01/31/2018	2018-4/111
R307-115	General Conformity	42548	EXT	01/31/2018	2018-4/111
R307-170	Continuous Emission Monitoring Program	42550	EXT	01/31/2018	2018-4/111
R307-220	Emission Standards: Plan for Designated Facilities	42553	EXT	01/31/2018	2018-4/111
R307-221	Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills	42552	EXT	01/31/2018	2018-4/112
R307-222	Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste	42532	EXT	01/31/2018	2018-4/112
R307-223	Emission Standards: Existing Small Municipal Waste Combustion Units	42533	EXT	01/31/2018	2018-4/112
R307-224	Mercury Emission Standards: Coal-Fired Electric Generating Units	42534	EXT	01/31/2018	2018-4/112
R307-250	Western Backstop Sulfur Dioxide Trading Program	42535	EXT	01/31/2018	2018-4/113
R307-312	Aggregate Processing Operations for PM2.5 Nonattainment Areas	42536	EXT	01/31/2018	2018-4/113
R307-344	Paper, Film, and Foil Coatings	42537	EXT	01/31/2018	2018-4/113
R307-345	Fabric and Vinyl Coatings	42538	EXT	01/31/2018	2018-4/113
R307-346	Metal Furniture Surface Coatings	42539	EXT	01/31/2018	2018-4/114
R307-347	Large Appliance Surface Coatings	42541	EXT	01/31/2018	2018-4/114
R307-348	Magnet Wire Coatings	42543	EXT	01/31/2018	2018-4/114
R307-349	Flat Wood Panel Coatings	42540	EXT	01/31/2018	2018-4/114
R307-350	Miscellaneous Metal Parts and Products Coatings	42542	EXT	01/31/2018	2018-4/114
R307-351	Graphic Arts	42544	EXT	01/31/2018	2018-4/115
R307-352	Metal Container, Closure, and Coil Coatings	42545	EXT	01/31/2018	2018-4/115
R307-354	Automotive Refinishing Coatings	42547	EXT	01/31/2018	2018-4/115
R307-355	Control of Emissions from Aerospace Manufacture and Rework Facilities	42549	EXT	01/31/2018	2018-4/115
R307-356	Appliance Pilot Light	42430	EXT	01/02/2018	2018-2/59
R307-505	Oil and Gas Industry: Registration Requirements	42110	NEW	01/26/2018	2017-19/71
R307-801	Utah Asbestos Rule	42551	EXT	01/31/2018	2018-4/115

Waste Management and Radiation Control, Waste Management

R315-301	Solid Waste Authority; Definitions, and General Requirements	42452	5YR	01/12/2018	2018-3/71
R315-302	Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements	42453	5YR	01/12/2018	2018-3/72
R315-303	Landfilling Standards	42454	5YR	01/12/2018	2018-3/72
R315-304	Industrial Solid Waste Landfill Requirements	42455	5YR	01/12/2018	2018-3/73
R315-305	Class IV and VI Landfill Requirements	42456	5YR	01/12/2018	2018-3/74
R315-306	Incinerator Standards	42457	5YR	01/12/2018	2018-3/74

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R315-307	Landtreatment Disposal Standards	42458	5YR	01/12/2018	2018-3/75
R315-308	Ground Water Monitoring Requirements	42459	5YR	01/12/2018	2018-3/75
R315-309	Financial Assurance	42460	5YR	01/12/2018	2018-3/76
R315-310	Permit Requirements for Solid Waste Facilities	42461	5YR	01/12/2018	2018-3/77
R315-311	Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities	42462	5YR	01/12/2018	2018-3/77
R315-312	Recycling and Composting Facility Standards	42463	5YR	01/12/2018	2018-3/78
R315-313	Transfer Stations and Drop Box Facilities	42464	5YR	01/12/2018	2018-3/79
R315-314	Facility Standards for Piles Used for Storage and Treatment	42465	5YR	01/12/2018	2018-3/79
R315-315	Special Waste Requirements	42466	5YR	01/12/2018	2018-3/80
R315-316	Infectious Waste Requirements	42467	5YR	01/12/2018	2018-3/80
R315-317	Other Processes, Variances, Violations, and Petition for Rule Change	42468	5YR	01/12/2018	2018-3/81
R315-318	Permit by Rule	42469	5YR	01/12/2018	2018-3/82
R315-320	Waste Tire Transporter and Recycler Requirements	42470	5YR	01/12/2018	2018-3/82
<u>Water Quality</u>					
R317-9	Administrative Procedures	42509	5YR	01/24/2018	2018-4/95
R317-10-10	Examination	42274	AMD	01/24/2018	2017-22/29
R317-13	Approvals and Permits for a Water Reuse Project	42510	5YR	01/24/2018	2018-4/96
R317-14	Approval of Change in Point of Discharge of POTW	42511	5YR	01/24/2018	2018-4/96
GOVERNOR					
<u>Criminal and Juvenile Justice (State Commission on)</u>					
R356-4	Juvenile Confinement	42055	NEW	01/02/2018	2017-18/26
<u>Criminal and Juvenile Justice (State Commission on), Indigent Defense Commission</u>					
R364-1	Conflicts of Interest for Indigent Defense Commission Members	42351	NEW	01/29/2018	2017-24/14
<u>Economic Development</u>					
R357-16	Utah Outdoor Recreation Infrastructure Grant	42332	AMD	01/17/2018	2017-23/25
HEALTH					
<u>Disease Control and Prevention, Environmental Services</u>					
R392-700	Indoor Tanning Bed Sanitation	42491	5YR	01/19/2018	2018-4/97
<u>Disease Control and Prevention, Epidemiology</u>					
R386-702	Communicable Disease Rule	42285	AMD	01/02/2018	2017-22/31
<u>Disease Control and Prevention, Health Promotion</u>					
R384-201	School-Based Vision Screening for Students in Public Schools	42569	EXT	02/08/2018	2018-5/161
<u>Disease Control and Prevention, Laboratory Services</u>					
R438-15	Newborn Screening	42282	NEW	01/29/2018	2017-22/60
<u>Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health</u>					
R388-805	Ryan White Part B Program	42328	AMD	02/01/2018	2017-23/28
<u>Family Health and Preparedness, Children with Special Health Care Needs</u>					
R398-1	Newborn Screening	42279	REP	01/29/2018	2017-22/46
<u>Family Health and Preparedness, Licensing</u>					
R432-1	General Health Care Facility Rules	42520	5YR	01/29/2018	2018-4/98
R432-2	General Licensing Provisions	42521	5YR	01/29/2018	2018-4/98
R432-3	General Health Care Facility Rules Inspection and Enforcement	42522	5YR	01/29/2018	2018-4/99
R432-4	General Construction	42523	5YR	01/29/2018	2018-4/99
R432-5	Nursing Facility Construction	42524	5YR	01/29/2018	2018-4/100

R432-6	Assisted Living Facility General Construction	42525	5YR	01/29/2018	2018-4/100
R432-16	Hospice Inpatient Facility Construction	42518	5YR	01/29/2018	2018-4/101
R432-35	Background Screening -- Health Facilities	42519	5YR	01/29/2018	2018-4/101
R432-150-8	Administrator	42201	AMD	01/11/2018	2017-21/108
R432-270-19	Medication Administration	42200	AMD	01/11/2018	2017-21/109

Health Care Financing

R410-14	Administrative Hearing Procedures	42517	EMR	01/29/2018	2018-4/81
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Health Care Financing, Coverage and Reimbursement Policy

R414-4x	Policy Statement on Denial of Payment to Medicaid Provider When Client Fails to Keep Scheduled Appointment	42306	REP	01/19/2018	2017-23/49
R414-27	Medicaid Enrollment Process for Nursing Care Facilities	42427	5YR	01/02/2018	2018-2/54
R414-301	Medicaid General Provisions	42440	5YR	01/08/2018	2018-3/83
R414-302	Eligibility Requirements	42441	5YR	01/08/2018	2018-3/84
R414-302-6	Residents of Institutions	42487	EMR	01/19/2018	2018-4/85
R414-303	Coverage Groups	42442	5YR	01/08/2018	2018-3/84
R414-304	Income and Budgeting	42443	5YR	01/08/2018	2018-3/85
R414-305	Resources	42444	5YR	01/08/2018	2018-3/85
R414-306	Program Benefits and Date of Eligibility	42445	5YR	01/08/2018	2018-3/86
R414-308	Application, Eligibility Determinations and Improper Medical Assistance	42446	5YR	01/08/2018	2018-3/86
R414-308-3	Application and Signature	42488	EMR	01/19/2018	2018-4/87
R414-311	Targeted Adult Medicaid	42489	EMR	01/19/2018	2018-4/90
R414-517	Inpatient Hospital Provider Assessments	42353	AMD	01/29/2018	2017-24/16

HUMAN SERVICES

Administration

R495-885	Employee Background Screenings	42417	AMD	02/23/2018	2018-2/13
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Administration, Administrative Services, Licensing

R501-1	General Provisions for Licensing	42216	AMD	02/23/2018	2017-21/111
R501-12	Foster Care Services	42217	AMD	02/23/2018	2017-21/120
R501-14	Human Service Program Background Screening	42233	AMD	02/23/2018	2017-21/130
R501-18	Recovery Residence Services	42234	AMD	02/07/2018	2017-21/136

Aging and Adult Services

R510-105	"Out and About" Homebound Transportation Assistance Fund Rules	42485	5YR	01/17/2018	2018-4/102
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Child and Family Services

R512-100	In-Home Services	42596	5YR	02/15/2018	2018-5/143
R512-200	Child Protective Services, Intake Services	42597	5YR	02/15/2018	2018-5/143
R512-201	Child Protective Services, Investigation Services	42598	5YR	02/15/2018	2018-5/144
R512-202	Child Protective Services, General Allegation Categories	42599	5YR	02/15/2018	2018-5/144
R512-300	Out-of-Home Services	42600	5YR	02/15/2018	2018-5/145
R512-301	Out-of-Home Services, Responsibilities Pertaining to a Parent or Guardian	42601	5YR	02/15/2018	2018-5/145
R512-302	Out-of-Home Services, Responsibilities Pertaining to an Out-of-Home Caregiver	42602	5YR	02/15/2018	2018-5/146
R512-305	Out-of-Home Services, Transition to Adult Living Services	42603	5YR	02/15/2018	2018-5/146
R512-309	Out-of-Home Services, Foster Parent Reimbursement of Motor Vehicle Insurance Coverage for Youth in Foster Care	42604	5YR	02/15/2018	2018-5/147
R512-500	Kinship Services, Placement and Background Screening	42605	5YR	02/15/2018	2018-5/147

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R539-1	Eligibility	42560	NSC	03/01/2018	Not Printed
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Substance Abuse and Mental Health, State Hospital

R525-2	Patient Rights	42473	5YR	01/16/2018	2018-3/87
R525-3	Medication Treatment of Patients	42474	5YR	01/16/2018	2018-3/87
R525-3	Medication Treatment of Patients	42558	NSC	03/01/2018	Not Printed
R525-4	Visitors	42475	5YR	01/16/2018	2018-3/88
R525-5	Background Checks	42476	5YR	01/16/2018	2018-3/88
R525-6	Prohibited Items and Devices	42477	5YR	01/16/2018	2018-3/89
R525-6	Prohibited Items and Devices	42557	NSC	03/01/2018	Not Printed
R525-7	Complaints/Suggestions/Concerns	42478	5YR	01/16/2018	2018-3/89

INSURANCE

Administration

R590-102	Insurance Department Fee Payment Rule	42395	AMD	02/08/2018	2018-1/11
R590-157	Surplus Lines Insurance Premium Tax and Stamping Fee	42438	5YR	01/04/2018	2018-3/90
R590-218	Permitted Language for Reservation of Discretion Clauses	42437	5YR	01/04/2018	2018-3/90
R590-243	Commercial Motor Vehicle Insurance Coverage	42436	5YR	01/04/2018	2018-3/91
R590-266-1	Authority	42319	AMD	01/10/2018	2017-23/66

JUDICIAL PERFORMANCE EVALUATION COMMISSION

Administration

R597-5	Electronic Meetings	42262	NEW	01/02/2018	2017-22/68
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LABOR COMMISSION

Administration

R600-1	Declaratory Orders	42622	5YR	02/26/2018	Not Printed
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R612-200	Workers' Compensation Rules - Filing and Paying Claims	42562	5YR	02/08/2018	2018-5/149
R612-300	Workers' Compensation Rules - Medical Care	42563	5YR	02/08/2018	2018-5/149
R612-400	Workers' Compensation Insurance, Self-Insurance and Waivers	42564	5YR	02/08/2018	2018-5/150

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R645-104	Protection of Employees	42498	5YR	01/24/2018	2018-4/104
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R647-5	Administrative Procedures	42504	5YR	01/24/2018	2018-4/107
R647-6	Inspection and Enforcement: Division Authority and Procedures	42505	5YR	01/24/2018	2018-4/108
R647-7	Inspection and Enforcement: Civil Penalties	42506	5YR	01/24/2018	2018-4/108
R647-8	Inspection and Enforcement: Individual Civil Penalties	42507	5YR	01/24/2018	2018-4/109

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R657-5	Taking Big Game	42371	AMD	02/07/2018	2018-1/19
R657-9	Taking Waterfowl, Wilson's Snipe and Coot	42376	AMD	02/07/2018	2018-1/33
R657-12	Hunting and Fishing Accommodations for People With Disabilities	42375	NSC	02/13/2018	Not Printed
R657-19	Taking Nongame Mammals	42377	AMD	02/07/2018	2018-1/35
R657-41	Conservation and Sportsman Permits	42379	AMD	02/07/2018	2018-1/38
R657-58	Fishing Contests and Clinics	42449	5YR	01/09/2018	2018-3/91
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R657-67	Utah Hunter Mentoring Program	42372	AMD	02/07/2018	2018-1/44
R657-70	Taking Utah Prairie Dogs	42378	REP	02/07/2018	2018-1/46
R657-71	Removal of Wild Deer from Domesticated Elk Facilities	42373	NEW	02/07/2018	2018-1/52

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Administration

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R671-202	Notification of Hearings	42294	AMD	01/08/2018	2017-22/77
R671-203	Victim Input and Notification	42297	AMD	01/08/2018	2017-22/78
R671-205	Credit for Time Served	42227	AMD	01/08/2018	2017-21/169
R671-206	Competency of Offenders	42296	NEW	01/08/2018	2017-22/81
R671-304	Hearing Record	42231	AMD	01/08/2018	2017-21/171
R671-312	Commutation Hearings for Death Penalty Cases	42575	5YR	02/13/2018	2018-5/150
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R671-513	Expedited Determination of Parolee Challenge to Probable Cause	42579	5YR	02/13/2018	2018-5/152
R671-514	Waiver and Pleas of Guilt	42580	5YR	02/13/2018	2018-5/153
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R671-516	Parole Revocation Hearings	42583	5YR	02/13/2018	2018-5/154
R671-517	Evidentiary Hearings and Proceedings	42584	5YR	02/13/2018	2018-5/154
R671-518	Conduct of Proceedings When a Criminal Charge Results in Conviction	42585	5YR	02/13/2018	2018-5/155
R671-519	Proceedings When Criminal Charges Result in Acquittal	42586	5YR	02/13/2018	2018-5/155
R671-520	Treatment of Confidential Testimony	42587	5YR	02/13/2018	2018-5/156
R671-522	Continuances Due to Pending Criminal Charges	42588	5YR	02/13/2018	2018-5/156

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Administration

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R722-350	Certificate of Eligibility	42259	AMD	01/10/2018	2017-22/94
R722-380	Firearm Background Check Information	42260	AMD	01/10/2018	2017-22/96

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R746-341	Lifeline Rule	42423	REP	02/21/2018	2018-2/24
R746-343	Rule for Deaf, Severely Hearing or Speech Impaired Person	42425	REP	02/21/2018	2018-2/28
R746-347	Extended Area Service (EAS)	42589	5YR	02/14/2018	2018-5/158
R746-360	Universal Public Telecommunications Service Support Fund	42426	REP	02/21/2018	2018-2/31
R746-402	Rules Governing Reports of Accidents by Electric, Gas, Telephone, and Water Utilities	42592	5YR	02/14/2018	2018-5/158
R746-405	Filing of Tariffs for Gas, Electric, Telephone, and Water Utilities	42591	5YR	02/14/2018	2018-5/159
R746-409-1	General Provisions	42331	AMD	01/09/2018	2017-23/75

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R805-1	Operating Regulations for Bicycles, Skateboards, Rollerskates and Scooters (Non-Motorized Riding Devices)	42617	5YR	02/22/2018	Not Printed
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SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

Administration

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R856-2	USTAR University-Industry Partnership Program Grants	42357	R&R	01/23/2018	2017-24/28
R856-3	USTAR University Technology Acceleration Grants	42359	R&R	01/23/2018	2017-24/36
R856-4	USTAR Science Technology Initiation Grant	42358	R&R	01/23/2018	2017-24/41
R856-5	Utah Science, Technology, and Research (USTAR) Energy Research Triangle Professors (ERT-P) Grant	42356	R&R	01/23/2018	2017-24/48
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R895-12	Telecommunications Services and Requirements	42529	EMR	01/30/2018	2018-4/92

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R918-6	Maintenance Responsibility at Intersections, Overcrossings, and Interchanges between Class A Roads and Class B or Class C Roads	42392	AMD	02/07/2018	2018-1/53
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WORKFORCE SERVICES

Administration

R982-800	Utah Data Research Center	42421	NEW	03/01/2018	2018-2/38
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ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>acquit</u> Pardons (Board Of), Administration	42586	R671-519	5YR	02/13/2018	2018-5/155
<u>acupuncture</u> Commerce, Occupational and Professional Licensing	42338	R156-72	AMD	01/23/2018	2017-24/11
<u>ADAP</u> Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health	42328	R388-805	AMD	02/01/2018	2017-23/28
<u>adjudicative proceedings</u> Environmental Quality, Water Quality	42509	R317-9	5YR	01/24/2018	2018-4/95
<u>administrative necessary proceedings</u> Labor Commission, Industrial Accidents	42562	R612-200	5YR	02/08/2018	2018-5/149
<u>administrative procedures</u> Commerce, Occupational and Professional Licensing Labor Commission, Industrial Accidents	42428 42561	R156-46b-401 R612-100	NSC 5YR	01/18/2018 02/08/2018	Not Printed 2018-5/148
<u>administrative proceedings</u> Environmental Quality, Water Quality	42509	R317-9	5YR	01/24/2018	2018-4/95
<u>adult education</u> Education, Administration	42394	R277-705	AMD	02/28/2018	2018-1/5
<u>aerospace</u> Environmental Quality, Air Quality	42549	R307-355	EXT	01/31/2018	2018-4/115
<u>affordable base rate</u> Public Service Commission, Administration	42426	R746-360	REP	02/21/2018	2018-2/31
<u>aggregate</u> Environmental Quality, Air Quality	42536	R307-312	EXT	01/31/2018	2018-4/113
<u>air pollution</u> Environmental Quality, Air Quality	42546 42548 42550 42553 42552 42532 42533 42534 42535 42536 42538 42539 42541 42543	R307-102 R307-115 R307-170 R307-220 R307-221 R307-222 R307-223 R307-224 R307-250 R307-312 R307-345 R307-346 R307-347 R307-348	EXT EXT EXT EXT EXT EXT EXT EXT EXT EXT EXT EXT EXT EXT EXT	01/31/2018 01/31/2018 01/31/2018 01/31/2018 01/31/2018 01/31/2018 01/31/2018 01/31/2018 01/31/2018 01/31/2018 01/31/2018 01/31/2018 01/31/2018 01/31/2018 01/31/2018	2018-4/111 2018-4/111 2018-4/111 2018-4/111 2018-4/112 2018-4/112 2018-4/112 2018-4/112 2018-4/113 2018-4/113 2018-4/113 2018-4/113 2018-4/114 2018-4/114 2018-4/114

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	42542	R307-350	EXT	01/31/2018	2018-4/114
	42544	R307-351	EXT	01/31/2018	2018-4/115
	42545	R307-352	EXT	01/31/2018	2018-4/115
	42547	R307-354	EXT	01/31/2018	2018-4/115
	42549	R307-355	EXT	01/31/2018	2018-4/115
	42110	R307-505	NEW	01/26/2018	2017-19/71
	42551	R307-801	EXT	01/31/2018	2018-4/115
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Administrative Services, Finance	42573	R25-8	5YR	02/08/2018	2018-5/142
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	42488	R414-308-3	EMR	01/19/2018	2018-4/87
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	42373	R657-71	NEW	02/07/2018	2018-1/52	
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	42598	R512-201	5YR	02/15/2018	2018-5/144	
	42599	R512-202	5YR	02/15/2018	2018-5/144	
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Human Services, Child and Family Services	42596	R512-100	5YR	02/15/2018	2018-5/143	
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	42598	R512-201	5YR	02/15/2018	2018-5/144	
	42599	R512-202	5YR	02/15/2018	2018-5/144	
	42600	R512-300	5YR	02/15/2018	2018-5/145	
	42601	R512-301	5YR	02/15/2018	2018-5/145	
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	42487	R414-302-6	EMR	01/19/2018	2018-4/85	
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	42542	R307-350	EXT	01/31/2018	2018-4/114
	42547	R307-354	EXT	01/31/2018	2018-4/115
	42549	R307-355	EXT	01/31/2018	2018-4/115
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<u>concealed firearm permit instructors</u>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	42258	R722-300	AMD	01/10/2018	2017-22/89
<u>concealed firearm permits</u>					
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<u>contractors</u>					
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<u>conviction</u> Pardons (Board Of), Administration	42585	R671-518	5YR	02/13/2018	2018-5/155
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<u>credit for time served</u> Pardons (Board Of), Administration	42227	R671-205	AMD	01/08/2018	2017-21/169
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<u>criminal competency</u> Pardons (Board Of), Administration	42296	R671-206	NEW	01/08/2018	2017-22/81
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<u>disabled</u> Human Services, Aging and Adult Services	42485	R510-105	5YR	01/17/2018	2018-4/102
<u>disabled persons</u> Natural Resources, Wildlife Resources	42375	R657-12	NSC	02/13/2018	Not Printed
<u>discharge</u> Environmental Quality, Water Quality	42511	R317-14	5YR	01/24/2018	2018-4/96
<u>domestic violence</u> Human Services, Child and Family Services	42597 42598 42599 42600 42601	R512-200 R512-201 R512-202 R512-300 R512-301	5YR 5YR 5YR 5YR 5YR	02/15/2018 02/15/2018 02/15/2018 02/15/2018 02/15/2018	2018-5/143 2018-5/144 2018-5/144 2018-5/145 2018-5/145
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<u>educator licensing</u> Education, Administration	42618	R277-518	5YR	02/26/2018	Not Printed
<u>educators</u> Education, Administration	42324 42439	R277-515 R277-530-3	AMD NSC	01/09/2018 01/25/2018	2017-23/11 Not Printed
<u>effective date</u> Health, Health Care Financing, Coverage and Reimbursement Policy	42445	R414-306	5YR	01/08/2018	2018-3/86
<u>effectiveness</u> Education, Administration	42439	R277-530-3	NSC	01/25/2018	Not Printed
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<u>electricians</u>						
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	42488	R414-308-3	EMR	01/19/2018	2018-4/87	
	42489	R414-311	EMR	01/19/2018	2018-4/90	
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	42592	R746-402	5YR	02/14/2018	2018-5/158
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