

~~NOTICE~~  
**CHANGE IN PROPOSED RULE**

- The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301 and Subsection 53C-1-201(3)(c).
- Please address questions regarding information on this notice to the agency.
- The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- The full text of all rule filings may also be inspected at the Division of Administrative Rules.

**Agency Information**

1. Agency: Insurance - Administration  
Room no.: 3110  
Building: STATE OFFICE BLDG  
Street address 1: 450 N MAIN ST  
Street address 2:  
City, state, zip: SALT LAKE CITY UT 84114-1201  
Mailing address 1: PO BOX 146901  
Mailing address 2:  
City, state, zip: SALT LAKE CITY UT 84114-6901

**Contact person(s):**

Name:	Phone:	Fax:	E-mail:
Jilene Whitby	801-538-3803	801-538-3829	jwhitby@utah.gov

(Interested persons may inspect this filing at the above address or at DAR during business hours)

**Rule Information**

DAR file no: 35105 Date filed: 10/14/2011 12:40 PM  
State Admin Rule Filing Key: 151690  
Utah Admin. Code ref. (R no.): R 590 - 261 -  
Changed to Admin. Code ref. (R no.): - -

**Title**

2. Title of rule or section (catchline):  
Health Benefit Plan Adverse Benefit Determinations

**Notice Type**

3. Type of notice: Change in Proposed Rule  
Changes original proposed rule file no.:35105

**Rule Purpose**

4. Purpose of the rule or reason for the change:  
This rule is being changed to comply with the Patient Protection and Affordable Care Act and to respond to comments made during the previous comment period.

**Response Information**

5. This change is a response to comments by the Administrative Rules Review Committee.  
No

**Rule Summary**

6. Summary of the rule or change:  
The rule changes clarify the difference between an adverse benefit determination and a final adverse benefit

determination; deletes the incorporation by reference section; adds a definition for final adverse benefit determination; clarifies when the Notice of the Right to an Independent Review is to be provided; clarifies what the carrier must do when an adverse benefit determination is overturned; renumbers sections.

#### Aggregate Cost Information

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: No

Changes will not create a fiscal impact on the department or the state's budget. No additional filings will need to be made to the department. Only if insurers fail to pay a claim immediately in the instance of the overturning of a final adverse benefit determination may a fine be levied against an insurer. The fine would then go into the department's budget.

B) Local government:

Affected: No

This rule only affects the relationship between the department and their licensees, in this case, health insurance companies.

C) Small businesses:

Affected: No

("small business" means a business employing fewer than 50 persons)

One change requires health insurance companies to approve and pay a claim within one day if the final adverse benefit determination is overturned. Failure to do so could result in a fine to the insurance company.

D) Persons other than small businesses, businesses, or local government entities:

Affected: No

("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency)

Insurers will only need to provide a notification to the insured on a final adverse benefit determination rather than all adverse benefit determinations thus saving some mailing and paper costs as well as time. Failure to pay an overturned final adverse benefit determination claim immediately could result in a fine to the insurance company.

#### Compliance Cost Information

8. Compliance costs for affected persons:

One change requires insurance company to approve and pay a claim within one day if the final adverse benefit determination is overturned. This change will not increase cost but will require payment be done immediately or the insurer will be fined. Insurers will only need to provide a notification to the insured on a final adverse benefit determination rather than all adverse benefit determinations thus saving some mailing and paper costs as well as time.

#### Department Head Comments

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

The changes to this rule will have some fiscal impact on insurers with reduced notifications are concerned.

B) Name and title of department head commenting on the fiscal impacts:

Neal T. Gooch, Commissioner

#### Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :  
Section 31A-2-201

Section 31A-22-629

Section 31A-2-212

### Incorporated Materials

11. This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank) :

Official Title of Materials Incorporated (from title page):

Publisher:

Date Issued:

Issue, or version:

ISBN Number:

ISSN Number:

Cost of Incorporated Reference:

Adds, updates, removes:

### Comments

12. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy) :

12/01/2011

B) A public hearing (optional) will be held:

On (mm/dd/yyyy): At (hh:mm AM/PM): At (place):

11/15/2011

11:00 AM

State Office Bldg, 450 N State Stree, Room 3112, Salt Lake City, UT

### Proposed Effective Date

13. This rule change may become effective on (mm/dd/yyyy):

12/08/2011

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After a minimum of seven days following the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

### Indexing Information

14. Indexing information - keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")):  
health benefit plan insurance

### File Information

15. Attach an RTF document containing the text of this rule change (filename):

There is a document associated with this rule filing.

### To the Agency

Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the Utah State Bulletin, and delaying the first possible effective date.

### Agency Authorization

Agency head or designee, and title:

Jilene Whitby Information  
Specialist

Date (mm/dd/yyyy): 10/14/2011