

Rule Summary and Fiscal Analysis (Part A)**Department of Insurance**

Agency Name

Division

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3901-4-02

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Long-term care partnership program.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **3923.41, 3923.44, 3923.47**

5. Statute(s) the rule, as filed, amplifies or implements: **3923.41 to 3923.49**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The rule as originally adopted allowed partnership policy offers to be made only using policy forms that are currently being marketed at the time the offer is made. A number of insurers asserted that this disallows persons who have purchased long term care insurance policies a number of years ago from being able to afford or possibly not be able to be underwritten under the new long term care policy forms the insurer has chosen to use as partnership qualified forms, especially when their non-currently marketed forms contain most if not all of the partnership features,

resulting in inequities in partnership policy offers.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The rule outlines the process for insurers choosing to participate in the Ohio long term care insurance partnership program to make the offer to existing policyholders who purchased their long term care insurance policy or certificate on or after August 12, 2002 to accept a "partnership qualified" long term care insurance policy. This policy then allows the person to, by using the benefits under the private insurance, avoid spending down that same amount if they ever need to apply for Medicaid, and allows the family of the insured to avoid paying that amount back after the insured has died (avoids dollar for dollar spend-down for initial and annual Medicaid eligibility and avoids Medicaid asset recovery program on the back end for those same amounts). The rule includes a description of the mechanics of the partnership policy offer, including consumer disclosures, policy filing requirements, data reporting. The change suggested allows insurers to file non-currently marketed forms plus any accompanying riders or endorsements for approval as "partnership qualified" forms and use those in offering partnership policies to existing policyholders or certificateholders of those policy forms going forward, so these insureds can take advantage of the Medicaid asset protection feature. Exchanges under this rule made by the same insurer as the existing policy or certificate are exempted from replacement application questions and reporting requirements in OAC 3901-4-01 (N) and (O).

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. 119.032 Rule Review Date: **8/31/2017**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

0.00

Not Applicable.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not Applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your

information/estimated costs, e.g. industry, CFR, internal/agency:

Forms chosen by the insurer that wishes to participate need to be filed with the Department to be approved as "partnership qualified." Fifty dollars per form if filed separately.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

The policy forms must be approved as "partnership qualified" in order for insurers to use them in offering partnership policies to existing policyholders or certificateholders of those policy forms.

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **Yes**

Insurers choosing to participate in the partnership program must get their chosen policy forms approved as "partnership qualified" to offer them in Ohio (\$50 filing fee per form if filed separately); they must also make regular data reports to the Secretary of Health and Human Services.