

STATE OF OHIO  
DEPARTMENT OF INSURANCE  
50 West Town Street, 3<sup>rd</sup> Floor, Suite 300  
Columbus, Ohio 43215

IN THE MATTER OF PUBLIC HEARING	:	
FOR THE AMENDMENT OF OHIO	:	
ADMINISTRATIVE CODE SECTIONS	:	
3901-1-52, 3901-1-57, 3901-4-01, 3901-4-02,	:	NOTICE OF
3901-6-03, 3901-6-10, 3901-6-10.1, 3901-6-14,	:	PUBLIC HEARING
3901-6-15, 3901-8-01, 3901-8-05, 3901-8-08,	:	
3901-8-11, 3901-8-16 AND THE RESCISSION	:	
OF ADMINISTRATIVE CODE SECTION	:	
3901-8-14	:	

Pursuant to section 119.03 of the Ohio Revised Code, the Superintendent of Insurance, State of Ohio, will hold a public hearing at 10:00 a.m., on Monday, October 1, 2018 at the Ohio Department of Insurance, Public Hearing Room, 50 West Town Street, 3<sup>rd</sup> Floor, Suite 300, Columbus, Ohio, to consider the amendment of Ohio Administrative Code sections 3901-1-52 Life and health insurance guaranty association disclaimer and not covered form; 3901-1-57 Transaction fees; 3901-4-01 Long-term care insurance; 3901-4-02 Long-term care partnership program; 3901-6-03 Life insurance disclosure; 3901-6-10 Valuation of life insurance policies; 3901-6-10.1 Smoker/nonsmoker mortality tables; 3901-6-14 Annuity disclosure; 3901-6-15 Preneed life insurance minimum standards for determining reserve liabilities and nonforfeiture values; 3901-8-01 Coordination of benefits; 3901-8-05 Regulation of third party administrators; 3901-8-08 Medicare supplement; 3901-8-11 Unfair health claims practices; 3901-8-16 Required provider network disclosures for consumers; and to consider the rescission of Ohio Administrative Code section 3901-8-14 Open enrollment for children under nineteen in the individual and non-employer group markets.

The purpose of rule 3901-1-52 is to establish the form and content of the disclaimer to the summary document describing the general purposes and current limitations of the Ohio life and health insurance guaranty association and the notice that the policy or contract, or portion thereof, may not be covered by the association.

The reason for amending rule 3901-1-52 is the agency five-year rule review. The rule is being amended to update the current mailing address of OLHIGA.

The purpose of rule 3901-1-57 is to establish fees and charges for certain transactions or services required to be performed by the department of insurance.

The reason for amending rule 3901-1-57 is the agency five-year rule review. The rule is being amended to remove language that was repealed; to combine repetitive language to make the rule more concise; and to correct rule references.

The purpose of rule 3901-4-01 is to implement sections 3923.41 to 3923.49 of the Revised Code to promote the public interest, to promote the availability of long-term care insurance coverage, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to facilitate public understanding and comparison of long-term care insurance coverages, and to facilitate flexibility and innovation in the development of long-term care insurance.

The reason for amending rule 3901-4-01 is the agency five-year rule review. The rule is being amended to correct citation in paragraph (F)(1)(e) to reflect the correct Internal Revenue Code for long-term care.

The purpose of rule 3901-4-02 is to implement a state long-term care partnership program in Ohio in accordance with sections 3923.41 to 3923.49 and 5164.86 of the Revised Code.

The reason for amending rule 3901-4-02 is the agency five-year rule review. The rule is being amended by adding paragraph (G) modifications to inflation protection to allow a modification or elimination of inflation protection after the date of purchase as specified by divisions (O)(1) to (O)(3) of section 3923.44 of the Revised Code and provide that such modification or elimination does not affect the partnership qualified status of a policy qualified under the partnership program. In addition, an incorrect citation was changed in paragraph (A), from 5111.18 to 5164.86.

The purpose of rule 3901-6-03 is to require insurers to deliver to purchasers of life insurance information which will improve the buyer's ability to select the most appropriate plan of life insurance for the buyer's needs, improve the buyer's understanding of the basic features of the policy which has been purchased or which is under consideration and improve the ability of the buyer to evaluate the relative costs of similar plans of life insurance

The reason for amending rule 3901-6-03 is the agency five-year rule review. The rule is being amended to include the buyer's guide as an appendix in order to maintain compliance with rule formatting requirements and establish consistency with the annuity disclosure rule.

The purpose of rule 3901-6-10 is to provide: (a) tables of select mortality factors and rules for their use; (b) rules concerning a minimum standard for the valuation of plans with nonlevel premiums; and (c) rules concerning a minimum standard for the valuation of plans with secondary guarantees. Additionally, the rule also provides that the method for calculating basic reserves defined in this rule will constitute the "Commissioners' Reserve Valuation Method" for policies to which this rule is applicable, based upon the NAIC model.

The reason for amending rule 3901-6-10 is the agency five-year rule review. The rule is being amended to correct two references to section 3903.723 of the Revised Code by

changing “.72” to “.723”. Correction of reference section 3903.724 of the Revised Code due to changes made by SB 140 in 2014. The amendment changes “.721” to “.724”. There is also a correction to a formula that changes “ $R_t = Q_{P_{x+k+t}} / Q_{P_{x+k+t-1}}$ ” to “ $R_t = Q_{x+k+t} / Q_{x+k+t-1}$ ”.

The purpose of rule 3901-6-10.1 is to implement sections 3915.07, 3915.071, and 3903.72 of the Revised Code by permitting the use of mortality tables that reflect differences in mortality between smokers and nonsmokers in determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits for plans of insurance with separate premium rates for smokers and nonsmokers.

The reason for amending rule 3901-6-10.1 is the agency five-year rule review. The rule is being amended to correct a reference to section 3915.071 of the Revised Code. Changes “division (D)” to “divisions (E) and (F)”.

The purpose of rule 3901-6-14 is to provide standards for the disclosure of certain minimum information about annuity contracts to protect consumers and foster consumer education. The rule specifies the minimum information that must be disclosed, the method for disclosing it and the use and content of illustrations, if used, in connection with the sale of annuity contracts. The goal of this rule is to ensure that purchasers of annuity contracts understand certain basic features of annuity contracts.

The reason for amending rule 3901-6-14 is the agency five-year rule review. The rule is being amended to include the amendment to the NAIC model adopted by the NAIC in early March 2018.

The purpose of rule 3901-6-15 is to establish for preneed insurance products minimum mortality standards for reserves and nonforfeiture values, and to require the use of the "1980 Commissioners Standard Ordinary (CSO) Life Valuation Mortality Table" for use in determining the minimum standard of valuation of reserves and the minimum standard nonforfeiture values for preneed insurance products.

The reason for amending rule 3901-6-15 is the agency five-year rule review. The rule is being amended to correct a reference to section 3903.724 of the Revised Code. It changes the section number from “.721” to “.724”.

The purpose of rule 3901-8-01 is to permit a coordination of benefits (COB) between multiple plans, provide the authority for the orderly transfer of information needed to pay claims promptly, eliminate duplication of benefits by permitting a plan to reduce benefits paid when, pursuant to this rule, it is not required to pay its benefits first, reduce claim payment delays, and lastly, further define the COB statute.

The reason for amending rule 3901-8-01 is the agency five-year rule review. The rule is being amended to include correcting a citation and removing portions of paragraph (J) because it is no longer applicable as the original effective date has passed.

The purpose of rule 3901-8-05 is to establish regulatory standards for third party administrators.

The reason for amending rule 3901-8-05 is the agency five-year rule review. The rule is being amended to include "Pharmacy Benefit Manager" and "prescription drugs" in the definition of Third Party Administrator, paragraph (B)(1) of this rule, because the definition of "Administrator" in division (B) of section 3959.01 of the Revised Code includes the terms "pharmacy benefit manager" and "prescription drugs."

The purpose of rule 3901-8-08 is to provide for the reasonable standardization of coverage and simplification of terms and benefits of medicare supplement policies; to facilitate public understanding and comparison of such policies; to eliminate provisions contained in such policies which may be misleading or confusing in connection with the purchase of such policies or with the settlement of claims; and to provide for full disclosures in the sale of sickness and accident insurance coverage to persons eligible for medicare.

The reason for amending rule 3901-8-08 is the agency five-year rule review. The rule is being amended to address the changes to the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA). Med Supp policies are sold by alphabetical names, with each plan offering slightly different benefits. MACRA mandates various changes to these plans by plan year 2020. The amendments are addressed throughout the draft rule by the addition of paragraph (L) to this rule. Various amendments are also made to the rule appendices which market the plans accordingly for consumers. Additionally, the following two amendments further clarify how the rule currently is applied: the amendment to paragraph (N) of this rule, open enrollment, states that tobacco and nicotine usage is not to be used as a discriminating factor in the pricing of these policies. Amendments to paragraph (S)(2) of this rule, further clarify how commission or other compensation for agents following the fifth renewal year of the policy will be paid out.

The purpose of rule 3901-8-11 is to define certain additional unfair trade practices and to set forth minimum standards in connection with the investigation and disposition of health claims arising under policies, certificates or contracts issued pursuant to Ohio's insurance statutes, rules and regulations under Titles XVII and XXXIX of the Revised Code. Nothing herein shall be construed to create or imply a private cause of action for violation of this rule.

The reason for amending rule 3901-8-11 is the agency five-year rule review. The rule is being amended to include the amendment of paragraph (I) "Claim Denial Dispute Procedure" which clarifies the claim denial dispute procedure for any plan that is not defined in division (P) of section 3922.01 of the Revised Code as a "Health Plan Issuer". Additionally, paragraph (I)(2) of this rule was amended to further clarify the complaint procedure process.

The purpose of rule 3901-8-16 is to implement and interpret applicable statutes including sections 3901.21 and 3923.16 of the Revised Code by further defining unfair trade practices and setting forth minimum standards for the adequate disclosure of any limitations or restrictions on access to providers/facilities to enrollees and to potential enrollees prior to enrollment in a particular health plan.

The reason for amending rule 3901-8-16 is the agency five-year rule review. The rule is being amended to include:

(D)(1)(b) - Further clarifies when notice of a directory change must be given.

(D)(1)(j) - Further explains the intent of "easily distinguishable" network naming provision.

(E) - Further strengthens consumer protections against potential financial liability, as a result of misleading or inaccurate information provided on behalf of an insurance company or their representative.

(F)- Provides clarity in how notice of network change should be given to affected enrollees.

The purpose of rule 3901-8-14 is to establish uniform open enrollment periods during which carriers in the individual health insurance market may offer coverage to children under nineteen years of age on a guaranteed issue basis without any limitations or restrictions based on the health status of the child. For the purpose of this rule, "carrier" has the same meaning as defined in division (D) of section 3924.01 of the Revised Code.

The reason for rescinding rule 3901-8-14 is the agency five-year rule review. The rule is being rescinded due to the Affordable Care Act's open enrollment period which began on October 1, 2013, and has continued every year since, which offers coverage to children under the age of nineteen.

Requests for copies of the rule should be addressed to Tina Chubb, Ohio Department of Insurance, 50 West Town Street, 3<sup>rd</sup> Floor, Suite 300 Columbus, Ohio 43215, or the proposed rule can be viewed online at [www.insurance.ohio.gov](http://www.insurance.ohio.gov).

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3901-6-03

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