

# CSI - Ohio

## The Common Sense Initiative

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### MEMORANDUM

**TO:** Michael Farley, Ohio Department of Insurance

**FROM:** Paula Steele, Regulatory Policy Advocate

**DATE:** March 26, 2012

**RE:** **CSI Review – Solicitation and Sale of Medicare Supplemental Accident and Health Policies (OAC 3901-8-09)**

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On behalf of Lt. Governor Mary Taylor, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Agency as provided for in ORC 107.54.

#### Analysis

The proposed amended rule pertains to an existing rule that requires insurance brokers and agents who are selling supplemental insurance products to the Medicare-eligible population to disclose verbally and in written promotional materials that they are not authorized by or affiliated with the federal government. The purpose of the rule is to protect the Medicare population from deceptive sales practices. The amended portion of the rule clarifies that prohibited unsolicited contact with prospective clients does not include someone with whom the company or agent already has a business relationship. The amended rule was filed with the CSI Office on February 28, 2012, and the comment period for the rule closed on March 12, 2012.

In its BIA, the Ohio Department of Insurance (ODI) described a process for stakeholder outreach that involved emailing the proposed language to a list of stakeholders that appears to be fairly comprehensive. For the purposes of the rule at hand, because the original rule became effective in November 2011, thus being recently vetted through the Joint Committee on Agency Rule Review process, and the amended portion of the rule appears to be a clarification, this level of stakeholder involvement is acceptable.

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According to ODI, comments made after the original rule was promulgated made it clear that language about unsolicited contact was overly broad. ODI received one additional comment, suggesting direct payment to the Medicare supplement company to help ensure proper premium payment, which the Department addressed in a revised BIA.

Review of the rules and the associated BIA motivated additional inquiry with ODI and a request for a revised BIA to include additional information.

After reviewing the proposed rule and the associated revised BIA, the CSI Office has determined that the rule satisfactorily meets the standards espoused by the CSI Office, and the purpose of the rule justifies the adverse impact identified in the BIA.

### **Recommendations**

For the reasons explained above this office does not have any recommendations regarding this rule change.

### **Conclusion**

Based on the above comments, the CSI Office concludes that the Agency should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Mary Taylor, Lt. Governor and Director, Ohio Department of Insurance