

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Insurance
Regulation/Package Title: Life & Health five year packet
Rule Number(s): 3901-3-10, 3901-3-13, 3901-6-11, and 3901-6-12

Date: June 19, 2015

Rule Type:

☐ New

☒ Amended

☐ Rescinded

☒ 5-Year Review

☒ No Change

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

This rule package contains four rules addressing various life & health insurance regulations, specifically including: minimum required reserves for health insurance companies, the permitted use and recognition of certain mortality tables for life insurance companies, and the licensing of managing general agents.

Proposed amendments are technical in nature, and are proposed only to correct outdated citations in rules 3901-6-11 and 3901-6-12.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

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Sections 3901.041, 3905.79, 3903.72 and 3915.071 of the Revised Code.

3. Does the regulation implement a federal requirement? ☐ Yes ☒ No

Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

☐ Yes ☒ No

If yes, please briefly explain the source and substance of the federal requirement.

Not applicable.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

Not applicable.

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

Rule 3901-3-10 establishes the application requirements for a managing general agent (MGA). An MGA is a specialized type of insurance agent that, unlike traditional agents, is vested with underwriting authority from an insurer. The application standards established in this rule work to maintain accountability and therefore provide consumer protections.

Rule 3901-3-13 establishes the minimum reserve standards for all individual and group health insurance coverages, as required per the Revised Code. Such standards promote greater accountability and solvency. Solvency is crucial to the protection of the company, consumer and the overall insurance market.

Rule 3901-6-11 recognizes and permits the use of the 2001 commissioners standard ordinary (CSO) mortality table in accordance with the Revised Code. The recognition of this table makes Ohio life insurance policies consistent with the applicable National Association of Insurance Commissioners (NAIC) model regulation.

Rule 3901-6-12 recognizes and permits the use of an alternative mortality table to what is established in 3901-6-11. Use of the table within 3901-6-12 is an optional alternative, and provides for greater flexibility in the delivery of a compliant product to consumers. This table is also provided for in the NAIC model regulation.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

These regulations provide transparent guidance for MGAs and insurance companies. The department will see a decrease in confusion surrounding such requirements as well as a decrease in complaints and/or damages to consumers, as the rules are maintained.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation. *If applicable, please include the date and medium by which the stakeholders were initially contacted.*

On May 18th an email was sent to a stakeholder list explaining the department's intention of filing rules 3901-3-13 and 3901-3-10 as "no-change" and rules 3901-6-11 and 3901-6-12 as "amend" during the 2015 five-year rule review. This list of stakeholders included various companies such as: Westfield Group, Medical Mutual, Cincinnati Financial, Ohio National, and State Auto. Various trade groups were also contacted including: the National Association of Mutual Insurance Companies, the Ohio Hospital Association, the Ohio Association of Health Plans, Universal Health Care Action Network, and the American Council of Life Insurers. Individuals from Bricker & Eckler, and various other firms were also included in the stakeholder list.

Following the email, the department held a public hearing on May 26th providing for an opportunity to comment. The comment period was left open until the following week.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

Stakeholders were given the opportunity to comment both through email and at the public hearing. There were no stakeholder comments submitted regarding this rule package.

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

The regulations established in these rules were derived from various guidance and model acts provided by the NAIC. The NAIC is the national standard setting body for insurance regulation. Furthermore, these rules have been in effect in Ohio and have been applied consistently without industry concern.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

Rules 3901-3-10 and 3901-3-13 establish standards that must be met by health insurers and MGAs. These standards promote the accountability of agents and the solvency of health insurers. By issuing these guidelines, a clear and predictable process is implemented. It is important that these entities follow such regulations in order to maintain consumer protections.

Rules 3901-6-11 and 3901-6-12 recognize specific NAIC mortality tables for use in life insurance policies. The table recognized in rule 3901-6-12 is an alternative to that of rule

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3901-6-11. Both rules are established according to the NAIC model regulation, the recognition of these tables is essential to industry consistency.

11. Did the Agency specifically consider a performance-based regulation? Please explain.

Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.

Rule 3901-3-10 establishes application requirements which define the steps necessary to apply for MGA licensure. Therefore, this regulation may not be performance based.

Rule 3901-3-13 establishes the minimum reserve standards that must be maintained to ensure solvency.

Rules 3901-6-11 and 3901-6-12 recognize the use of mortality table. These rules do not render a performance-based regulation necessary.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The department maintains regulatory authority over insurance agents, brokers, and life and health insurance companies.

These regulations are confined to two chapters and are applied consistently.

13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

The rules within this rule package are currently being reviewed under the five-year rule review, therefore the requirements within these rules are already in place. The department maintains the licensing business unit which has been structured to support individuals and businesses that must comply with application requirements, such as those established in rule 3901-3-10. Product regulation staff oversees the compliance matters related to a very specific standard and through the establishment in rule provide predictability in the market. The product regulation division reviews all product submissions for compliance.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

- a. Identify the scope of the impacted business community;
- b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and
- c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

a. The scope of these rules impacts both individuals seeking licensure as a MGA and life and health insurers.

b. Rule 3901-3-10 requires an application fee of twenty dollars, as well as the gathering of applicable information required to complete the application.

c. Rule 3901-3-10 requires an applicant to complete the application for licensure. This includes a twenty dollar fee and should take no longer than a couple of hours at most to complete.

The remainder of this rule packet provides for both the use of mortality tables and minimum reserve guidelines. These regulations do not impose any specific costs or labor related requirements.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The requirements set forth in this package are necessary to maintain accountability and consumer protections.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

The scope of the rules included in this packet are to provide guidance to meet application and minimum reserve requirements. It is important that these regulations are applied consistently so that accountability and solvency are maintained.

Rules 3901-6-11 and 3901-6-12 provide for industry consistency and therefore must apply equally to insurers regardless of size. 3901-6-12 is established as an alternative option to the tables established in 3901-6-11.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Paperwork violations and/or first time offender issues would be dealt with on a case by case basis to determine whether the violation could have a serious impact on the consumer or the general public.

Minor errors would be handled by advising the agent or company and giving them an opportunity to cure the omission or irregularity.

18. What resources are available to assist small businesses with compliance of the regulation?

Department staff is available to answer questions. Furthermore, the department website includes specific sections regarding agent and agency information, as well as product regulation guidance and contact information.