

**MEMORANDUM**

TO: Loretta Medved, Ohio Department of Insurance

FROM: Christopher Smyke, Regulatory Policy Advocate

DATE: August 24, 2018

RE: **CSI Review – HIV Consent Form, Advertisement of Sickness/Accident Insurance, and Unfair Health Claims Practices (OAC 3901-8-06, 3901-8-07, 3901-8-11)**

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

This rule package consists of two no-change rules and one amended rule proposed by the Ohio Department of Insurance (ODI) for their statutorily-required five-year review. The rule package was submitted to the CSI Office on July 11, 2018 and the public comment period was held open through July 26, 2018. No comments were received during CSI review.

The rules in this package prescribe the form and content of the form necessary for an insurer to receive an applicant's consent for an HIV test, standards for advertising accident and sickness insurance products, and standards for a health insurer to deny a claim. Ohio Administrative Code (OAC) 3901-8-11 is being amended to add language to clarify the claim denial dispute procedure.

Prior to filing with CSI, ODI sent an email to industry stakeholders and trade groups including, but not limited to, the Ohio Association of Health Plans, the Ohio Association of Health Underwriters, the Ohio Hospital Association, and the Association of Ohio Life Insurance Companies. No comments were received during early stakeholder outreach. No comments were

received during early stakeholder outreach or the CSI public comment period.

The rules impact insurers administering HIV consent forms, sickness and accident insurers, and health insurance issuers. The impact entails administrative cost in staff time and resources to administer the HIV form, maintaining compliance in advertising, record keeping, and complying with claims practices. The BIA justifies the rules as a necessary safeguard to protect consumers who seek insurance coverage for HIV and ensure that consumers are not subjected to misleading or deceptive advertising of sickness/accident insurance products. The rules also ensure that health insurers provide consumers with the reasoning for a claim denial and all necessary information regarding the claim denial process.

Recommendation

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

Conclusion

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

CC: Emily Kaylor, Lt. Governor's Office