

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 3901-8-05

Rule Type: Amendment

Rule Title/Tagline: Regulation of third party administrators.

Agency Name: Department of Insurance

Division:

Address: 50 W Town Street Suite 300 Columbus OH 43215

Contact: Tina Chubb

Email: Tina.Chubb@insurance.ohio.gov **Phone:** (614) 728-1044

I. Rule Summary

1. Is this a five year rule review? Yes
 - A. What is the rule's five year review date? 8/30/2018
2. Is this rule the result of recent legislation? No
3. What statute is this rule being promulgated under? 119.03
4. What statute(s) grant rule writing authority? 3901.041, 3959.01 to 3959.16, 3959.99
5. What statute(s) does the rule implement or amplify? 3959.01 to 3959.16, 3959.99
6. What are the reasons for proposing the rule?

This rule is being reviewed as a part of the agency five year rule review.

7. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.

The rule sets forth requirements for licensing and regulation of third party administrators.

Paragraph (B)(1) of this rule is amended to include "Pharmacy Benefit Manager" and "prescription drugs" in the definition of Third Party Administrator, 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."

8. **Does the rule incorporate material by reference? Yes**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.71 to 121.76, please explain the basis for the exemption and how an individual can find the referenced material.**

The rule incorporates by reference section 125 of the Internal Revenue Code. This incorporation by reference consists of a citation that will be intelligible to the persons who reasonably can be expected to be affected by the rule. The material referenced by this citation is available to the public at <https://www.law.cornell.edu/uscode/text/26/125>.

10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

11. **As a result of this proposed rule, please estimate the increase / decrease in revenues or expenditures affecting this agency, or the state generally, in the current biennium or future years. If the proposed rule is likely to have a different fiscal effect in future years, please describe the expected difference and operation.**

This will have no impact on revenues or expenditures.

0.00

Not applicable.

12. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

Staff time and resources are required to comply with this rule.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**
14. **Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**

III. Common Sense Initiative (CSI) Questions

15. Was this rule filed with the Common Sense Initiative Office? Yes

16. Does this rule have an adverse impact on business? Yes

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

The rule sets forth requirements for licensing and regulating of third party administrators.

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? Yes

Paragraph (P) of this rule states that if any third party administrator violates section 3959.05 of the Revised Code, such third party administrator is subject to penalties described within section 3959.99 of the Revised Code. Paragraph (P) of this rule further states that nothing in this paragraph shall limit the power of the superintendent to impose any other penalties on a third party administrator who violates this rule pursuant to the authority vested in the superintendent by Title XXXIX of the Revised Code.

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

The rule requires that all third party administrators prepare an annual report to be filed with the plan sponsor within ninety days following the end of the fiscal year of the plan. Annual reports must include certain specified information consistent with requirements in division (B) of section 3959.14 and section 3959.15 of the Revised Code.

The rule also requires that any change of officers, directors, partners, members, or trustees, and any change of shareholders or other owners or members holding five per cent or more of ownership of a third party administrator, or any change of the business address of any third party administrator shall be reported on a form provided by the department of insurance and filed with the department of insurance within fifteen days after the end of the month in which the change occurs.