

CSI - Ohio

The Common Sense Initiative

Business Impact Analysis

Agency Name: Ohio Department of Insurance
Regulation/Package Title: 2018 FYR: 3901-1-14, 3901-1-52, 3901-1-58
Rule Number(s): 3901-1-14 Credit life and credit accident health insurance. (NC)
3901-1-52 Life and health insurance guaranty association
disclaimer and not covered form. (Amend)
3901-1-58 Standard credentialing form for physician and non-
physician providers. (NC)
Date: June 19, 2018

Rule Type:

- | | |
|---|---|
| <input type="checkbox"/> New | <input checked="" type="checkbox"/> 5-Year Review |
| <input checked="" type="checkbox"/> Amended | <input checked="" type="checkbox"/> No Change |
| <input type="checkbox"/> Rescinded | |

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.

Rule 3901-1-14: Credit insurance is a type of insurance policy purchased by a borrower that pays off one or more existing debts in the event of a death, disability, or in rare cases, unemployment. The purpose of this rule is to provide a framework for the policies and rates of credit insurance products issued and delivered in Ohio. There are no proposed amendments to this rule.

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Rule 3901-1-52: The Ohio Life and Health Insurance Guaranty Association (OLHIGA) is an association of insurance companies that sell life insurance, health insurance and annuities in Ohio. It was created by law to protect eligible policyholders, up to certain limits, against financial failure of an insurance company licensed to sell those types of policies in Ohio. The purpose of this rule is to establish the form and content of the disclaimer to a policy summary document describing the general purposes and current limitations of OLHIGA, and notice that the policy or contract, may not be covered in part or in whole, by the association. The insurance agent or company is required to provide this form to the consumer upon delivery of the insurance policy summary documents. The proposed amendments to this rule are technical in nature and will update the current mailing address of OLHIGA.

Rule 3901-1-58: The purpose of this rule is to prescribe the standard credentialing form to be used when credentialing healthcare providers. Health insurance companies contract with healthcare providers to establish networks of available physicians for consumers. As part of the contracting process, the company verifies the credentials of the provider, such as educational degrees and certifications. Since providers will often times contract with more than one company, a standard form can save providers time and money by reducing necessary paperwork. There are no proposed amendments to this rule.

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

Rule 3901-1-14: Sections 3901.041 and 3918.12 of the Revised Code.

Rule 3901-1-52: Section 3901.041 of the Revised Code.

Rule 3901-1-58: Sections 3901.041, 3901.21, 3963.08, and 1753.09 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 3901-1-14: Consumers are often times approached with offers to purchase credit insurance when making large purchases. The regulation of these products is important to ensure that safe and fair products are available in the market.

Rule 3901-1-52: This rule provides for an upfront disclosure to the consumer that certain protections provided for by the guaranty association may not be applied. This is an essential disclosure for consumer protection, informing consumers that their policy or claim may not be paid or covered by OHLIGA.

Rule 3901-1-58: The purpose of using a standardized form assists in compliance matters for healthcare providers and insurance companies alike. Ultimately, the use of a standard form assists in maintaining accountability for providers, builds consumer protections, and also reduces time for providers and insurers to comply with the credentialing process.

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

The success of this rule packet can be monitored by an understanding of the requirements throughout the regulated community and the department receiving a low number of consumer complaints and investigations, and market conduct and enforcement actions.

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 March 14 and April 24, 2018, respectively, an email requesting comment for these rules was sent to various stakeholders, interested parties, and trade associations. Including but not limited to: the Ohio Insurance Agents Association, the Ohio Association of Health Plans, OHLIGA and various life, health and property and casualty insurance companies. The rule was also posted on the department's web site for review.

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

No comments were received by the department during the vetting of these rules. However, the department worked with OHLIGA to ensure the proposed technical amendments to rule 3901-1-52 were complete and correct.

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?

Rule 3901-1-14: Every three years the department conducts a study and reviews the experience in this market for current rates. The department then analyzes and publishes the aggregate rates for upcoming filings. Companies then can base their rates on their own experience if they are able to demonstrate that their individual experience is credible and substantially different from what aggregate industry experience was found to be during the department study.

Rule 3901-1-52: ORC requires the superintendent to adopt a rule establishing the form and content of the disclaimer. The established disclosure to consumers informs them of the association and its potential coverages and limitations, providing a valuable protection for consumers. The language of the disclosure was reviewed by OHLIGA and no need to substantive amendment was found. Additionally, the department has not received any requests for change or an increase in complaints from consumers in regards to the disclosure.

Rule 3901-1-58: The use of a standard credentialing form was established after healthcare providers were required to complete multiple and potentially repetitive forms. The council for Affordable Quality Healthcare (CAQH), a non-profit alliance of health plans and trade associations developed a standardized form. This rule prescribes the use of the CAQH form.

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?

Rule 3901-1-14: This rule establishes the standards for the regulation of an insurance product. Exact calculations and requirements are necessary to ensure that the product promotes a fair, safe and competitive market.

Rules 3901-1-52 and 3901-1-58: Require the use of specific disclosures and forms, both of these documents were developed by associations directly related to the regulated community. The rules remain in place without request for substantive amendment and therefore do not warrant a need for alternative regulations at this time.

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 3901-1-14: Requires a specific set of regulation to maintain the integrity of specific insurance products. This rule relies on a required outcome, however, do provide some flexibility in the process.

Rules 3901-1-52 and 3901-1-58: Require the use and delivery of a specific disclosure and form.

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

The department reviewed Ohio statutes and rules and determined that these rules do not duplicate other regulations.

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.

All rules included in this packet have been in effect and do not have any proposed substantive amendments. The department maintains the market conduct and enforcement divisions which monitor compliance.

Rule 3901-1-52: Specifically, the proposed technical amendment will require carriers to update their form on file. The department has been in contact with OHLIGA and will ensure that the association's publications of the disclosure form are updated for use by the insurance companies.

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.

Rule 3901-1-14: This rule impacts insurance companies selling credit life and credit accident and health insurance. The quantifiable impact would be employee time to maintain compliance. Since the rule establishes a framework for how products are to be filed, the time required to comply with the rule would follow with the daily operation of business.

Rule 3901-1-52: This rule requires an agent or insurance company to provide a disclosure form to the consumer when purchasing a life, health or annuity product. The form is readily available and well known throughout the regulated community as the rule has been in effect for over twenty-five years. Therefore, any time or costs associated with providing this disclosure to the consumer are well established in conducting everyday transactions. The

time associated with replacing the current form with the proposal, would depend on the internal methods of each carrier but should not exceed a few hours.

Rule 3901-1-58: Health care providers described in the rule seeking to be credentialed by carriers are impacted by this rule. Staff resources will be required to complete the standardized credentialing form which is extensive. Exact time would depend on the recordkeeping of the individual. Since the rule allows for one form for all carriers, this rule saves providers more time than previous to its promulgation. This rule has been in effect for several years, and therefore, there should be no additional expense on the part of the providers as they have been in compliance with the rule.

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

Rule 3901-1-14: This rule establishes the standards for the regulation of an insurance product. Such established frameworks are necessary to insurance companies to ensure they are delivering a fair, competitive and compliant product.

Rule 3901-1-52: This rule provides for a disclosure to consumers that the protections from the guaranty association may not be available or may be limited, and therefore, the consumer should be aware of this when choosing an insurance company or policy. Ultimately, the rule provides an important disclosure to consumers and does not impose a significant adverse impact on the company.

Rule 3901-1-58: The rule requires providers to fill out one standardized credentialing form that can be used by all carriers. Before this rule was enacted, healthcare providers were often required to complete multiple forms - a form for every carrier it contracted with. This rule cuts down on duplicative paperwork. Additionally, credentialing providers verifies their status and ultimately provides consumer protection.

Regulatory Flexibility

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

Rule 3901-1-14: The rate justification process outlined in the rule and described above, allows for larger companies to use their own rating experience, and smaller companies who may not have the experience to accommodate such justifications to use the overall market findings as a standard.

Rules 3901-1-52 and 3901-1-58: These rules are designed to maintain standard operating procedures by requiring the use of specific documents, therefore it is important that the requirements are applied consistently regardless of the size of the business.

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?

Rule 3901-1-14: Non-compliant filings are identified in the review process and discussed with the company. Generally, companies agree to change a filing as requested by the department, propose an additional solution, or will withdraw the filing.

Rule 3901-1-52: Paperwork violations and/or first time offender issues would be dealt with on a case-by-case basis due to the fact that these types of violations could impact the consumer.

Rule 3901-1-58: There is no fine or penalty for paperwork violations under this rule.

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

Department staff is available to answer questions, regardless of the size of business. Links to the CAQH form and a Q&A are published on the department's web site, as well as, checklists and other guidance for making filings. Additionally, credit rate guidance is posted on the department's web site every three years.