

**MEMORANDUM**

TO: Loretta Medved, Ohio Department of Insurance

FROM: Christopher Smyke, Regulatory Policy Advocate

DATE: August 24, 2018

RE: **CSI Review – Long Term Care Packet (OAC 3901-4-01, 3901-4-02, and 3901-4-03)**

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 amended rules and one no-change 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. One comment was received during CSI review.

The rules in this package comprise Ohio Administrative Code (OAC) Chapter 3901-4 which governs long-term care insurance, a type of insurance product that can help cover the costs of home care, assisted living, adult daycare, hospice care, and nursing homes for individuals with chronic illness or disability. The rules establish product, disclosure, and marketing requirements for insurers to follow when engaging in the sale of long-term care insurance in Ohio, as well as implementing the state long-term care partnership program. In addition, the rules set forth requirements for insurers to maintain records of their insurance agent's education and continuing education credits on long-term care insurance. Proposed amendments to the rules include non-substantive technical amendments as well as a change to add more flexibility in the modification of the inflation protection for partnership qualified long-term care policies.

Prior to filing with CSI, ODI sent multiple emails to stakeholders including the Ohio Association of Health Plans, the Ohio Health Care Association, and the Ohio Association of Health Underwriters. In addition, ODI asked the Ohio Department of Medicaid to review OAC 3901-4-02 in June 2018. No comments were received during early stakeholder outreach. One comment was received during the CSI public comment period from LeadingAge Ohio, expressing support for the proposed change to OAC 3901-4-02.

The rules impact insurers and agents selling long-term care insurance products, as well as insurance companies which choose to offer partnership qualified plans. Impacted businesses can be expected to incur administrative costs, as time and resources are required to maintain compliance with the requirements, in addition to developing and filing policy forms and rates. Forms cost \$50 per form if filed separately.

The BIA justifies the rules as a necessary safeguard to protect consumers from unfair or deceptive enrollment and sales practices. The rules also provide uniform standards for insurers looking to sell long-term care partnership plans, allowing consumers to understand the product and making the state aware of the impact on the Medicaid program. Finally, the continuing education records retention rule helps ODI ensure that agents selling long-term care insurance are properly trained and educated.

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