

**MEMORANDUM**

TO: Loretta Medved, Ohio Department of Insurance

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: August 28, 2018

RE: **CSI Review – Medicare Supplement (OAC 3901-8-08)**

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 one amended rule proposed by the Ohio Department of Insurance (ODI) for the statutorily-required five-year review. The rule package was submitted to the CSI Office on July 25, 2018 and the public comment period was held open through August 9, 2018. One comment was received during this time to which ODI provided a response on August 22, 2018.

Ohio Administrative Code (OAC) 3901-8-08 addresses coverage standardization in regards to Medicare Supplement policies. The rule is being updated to include changes made to federal statute through the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA). Amendments that are being made to the rule include the inclusion of MACRA requirements in a new paragraph, which applies to individuals that are newly eligible for Medicare after January 1, 2020 and sets forth requirements and exemptions for certain benefit plans. These changes are also reflected in changes made to the rule appendices. Amendments are also being made in regards to tobacco and nicotine use, as well as commission or compensation for agents following the fifth

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year of policy renewal.

During early stakeholder outreach, ODI sent the rules for comment to relevant industry stakeholders, including health insurance companies and professional associations. During this time, ODI received comments from stakeholders which suggested technical changes to the rule language. ODI accepted and included the suggested changes into the rule. During the CSI public comment period, one comment was received that suggested changing the amended language regarding permitted compensation arrangements following the fifth year of policy renewal. ODI made changes to the language based on the comment and received support from the stakeholder after making the change.

The business community impacted by this rule includes all companies that sell Medicare Supplement policies in Ohio. The adverse impact created by the rule includes the time and effort necessary to comply with the requirements. While the amendments to the rule do not impose additional monetary costs, ODI notes in the BIA that companies may need to substantially revise current practices in order to comply with the new amendments. ODI states that the rule follows a standardized model used by many other states in order to comply with federal statute and the current timeframe provides companies one year to adjust practices before the January 1, 2020 effective date.

Recommendations

For the reasons described above, the CSI Office has no recommendations on this rule package.

Conclusion

Based on its review of the proposed rule package, the CSI Office recommends the Ohio Department of Insurance should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.