

**MEMORANDUM**

**TO:** Loretta Medved, Ohio Department of Insurance

**FROM:** Christopher Smyke, Regulatory Policy Advocate

**DATE:** August 24, 2018

**RE:** **CSI Review – Coordination of Benefits (OAC 3901-8-01, 3901-8-02, and 3901-8-05)**

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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 and ODI provided a response on August 15, 2018.

Ohio Administrative Code (OAC) 3901-8-01 governs coordination of benefits when an individual is covered by multiple insurance plans, allowing the transfer of information so that the plans can work together to pay the claims. This rule is amended to make a non-substantive technical correction, fixing a citation, and removing provisions with an old effective date. OAC 3901-8-02 sets requirements for third party payers when receiving a discount on billed charges from a health care provider; the rule is proposed with no changes. OAC 3901-8-05 governs third party administrators, organizations which handle certain administrative responsibilities. The rule sets forth licensing requirements, standards, and regulations for third party administrators and is being amended to add pharmacy benefit managers to the definition of a third party administrator. This

addition is consistent with the statutory definition of a third party administrator under ORC 3959.01.

Prior to filing with CSI, ODI sent multiple emails to industry stakeholders and trade groups including, but not limited to, the Ohio Association of Health Plans, the Ohio Association of Health Underwriters, and the Ohio Hospital Association. No comments were received during early stakeholder outreach. One comment was received during the CSI public comment period expressing concern over the proliferation of unregulated third party administrators dealing with property claims. ODI responded that such entities that deal in property claims fall outside the scope OAC 3901-8-05, but are subject to other provisions in the ORC and OAC. ODI notes that it has the authority to investigate and take administrative action against an entity which engages in an unfair claims practice and encourages the commenter to report any suspected failure to adhere to applicable state law or regulation.

The rules impact insurance companies that sell health insurance, third party payers, and third party administrators. Each of the rules levies administrative costs on the business community, requiring staff time and resources to maintain compliance. Third party administrators are expected to file annual reports, keep records, and stay up to date on license renewal. The BIA justifies the rules as a necessary safeguard to protect consumers by providing transparency to provider discounts and ensuring oversight of third party administrators. The rules also aid insurance companies by preventing the duplication of benefits and reducing the incidence of claim payment delays.

### **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