



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Loretta Medved, Ohio Department of Insurance

FROM: Michael Bender, Business Advocate

DATE: April 14, 2023

RE: **CSI Review – Insurance navigator certification and agent exchange requirements (OAC 3901-5-13)**

On behalf of Lt. Governor Jon Husted, 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 Department as provided for in ORC 107.54.

Analysis

This rule package consists of one amended rule proposed by the Ohio Department of Insurance (ODI) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on March 13, 2023, and the public comment period was held open through March 25, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on March 13, 2023.

Ohio Administrative Code (OAC) 3901-5-13 provides for the certification of insurance navigators and specifies requirements for licensed insurance agents who wish to sell, solicit, or negotiate a qualified health plan through the exchange. The rule is amended to update language and a citation, update the language of the severability provision, remove provisions regarding information located on ODI's website, replace the bifurcated fee structure for business entity applicants for certification as an insurance navigator with a uniform initial application fee and annual certification renewal fee, and push back the certification renewal deadlines.

During early stakeholder outreach, ODI sent an email on February 23, 2023, to the Mid-Ohio Foodbank and to consumer groups and associations such as the Ohio Association of Health Plans,

77 SOUTH HIGH STREET | 30TH FLOOR | COLUMBUS, OHIO 43215-6117

CSIPublicComments@governor.ohio.gov

the Ohio Insurance Agents Association, the National Association of Insurance and Financial Advisors, and the Ohio Insurance Underwriters Association. One comment was received from the Center for Medicare & Medicaid Services (CMS) within the U.S. Department of Health and Human Services encouraging ODI to change the navigator certification expiration date from July 31st to October 31st because the annual open enrollment period for the federal Health Insurance Marketplace begins on November 1st and CMS does not release navigator training until August or September. ODI amended the rule to make this change. During the CSI public comment period, ODI received two comments. A broker affiliated with Legacy Benefits Solutions supported the decreased fees and called for increasing navigator training, while an individual affiliated with Equitas Health echoed the concerns of CMS. ODI responded to the commenter from Equitas Health that these concerns were addressed in the draft rule.

The business community impacted by the rule includes individuals or business entities that are or apply to become insurance navigators. The adverse impacts created by the rule include application and renewal fees, completing a criminal background check, and continuing education requirements. As set forth in the rule, the initial application fee is \$250 while the renewal fee is \$100. According to ODI, a background check will cost approximately \$71. Furthermore, ODI notes that the time spent completing an application will depend on the individual's or entity's recordkeeping but should take no longer than a few hours. ODI states that the adverse impacts to business are justified to provide consistent consumer protection through accountability.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that ODI should proceed in filing the proposed rule with the Joint Committee on Agency Rule Review.