



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Loretta Medved, Ohio Department of Insurance

FROM: Joseph Baker, Business Advocate

DATE: September 29, 2021

RE: **CSI Review – Health insurance reserves, corporate governance annual disclosure, and annuity nonforfeiture product standards (OAC 3901-3-13, 3901-3-19, and 3901-6-16)**

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This rule package consists of one new, one no-change, one amended, and one rescinded rule proposed by the Ohio Department of Insurance (Department) as a part of the statutory five-year review process. This rule package was submitted to the CSI Office on August 2, 2021, and the public comment period was held open through August 16, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on August 2, 2021.

The rules in this package establish reserve standards for individual and group health insurance coverages, procedures related to insurers required to file corporate governance disclosures and nonforfeiture product standards for annuities.

New OAC 3901-3-13 establishes minimum reserve standards for individual and group health insurance coverages. The rule requires health insurance providers to maintain claim reserves and outlines accounting and actuarial methods and processes for maintaining such reserves and

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

CSIPublicComments@governor.ohio.gov

calculating potential liabilities. The Department states in the BIA that the rule is amended to adopt the latest standards adopted by the National Association of Insurance Commissioners (NAIC). Due to the extent of changes made to the rule, the Department proposes to rescind current OAC 3901-3-13 and replace the existing rule in its entirety.

OAC 3901-3-19 establishes procedures related to filing an annual corporate governance disclosure. The rule specifies that insurers who are required to file corporate governance disclosure must do so annually no later than June 1st of each year, that the disclosure must include a signature of the chief executive officer or corporate secretary attesting to the individual's belief that the practices described in the disclosure form have been implemented by the entity, that the insurer be as descriptive as possible in completing the disclosure, and that the disclosure describe the structural framework of the entity, the qualifications, expertise, and experience of board members, the independence of the board and its committees, the number of meetings held by the board, how board members are selected and the duration of terms, and other factors related to leadership structure and authority within the entity. The rule is amended to adopt a technical change.

OAC 3901-6-16 establishes standards for the purpose of calculating nonforfeiture values for annuity contracts. The rule specifies notwithstanding any language in a contract, the nonforfeiture maturity date of an annuity shall be the later of the 10th contract anniversary or the contract anniversary following the annuitant's 70th birthday and establishes other related tests, forfeiture conditions, and adjustments.

During early stakeholder outreach, the Department shared the proposed rules with various interested parties, including the Ohio Insurance Institute, the Ohio Land Title Association, the Association of Ohio Life Insurance Companies, the American Council of Life Insurance, the National Association of Insurance and Financial Advisors, the Ohio Association of Health Plans, and the Ohio Insurance Agent Association, among others and posted the rules on its website. No comments were provided in response to the request for early stakeholder outreach or during the CSI public comment period.

The business community impacted by the rules includes Ohio health insurers, Ohio insurers that are required to complete and submit a corporate governance annual disclosure, and insurance companies that sell applicable annuity products in Ohio. The adverse impacts to business include the costs and expense associated with determining appropriate minimum reserves and maintaining such reserves, the costs of completing and submitting corporate governance disclosures as specified, and costs associated with determining and complying with the calculation methods and nonforfeiture requirements for annuities. The Department states in the BIA that the costs of maintaining minimum reserves is unknown, but that the changes to the rule are familiar to the

industry and additional staff time necessary to comply with the changes is anticipated to be minimal. The Department also notes that the costs of completing corporate governance disclosures decreases significantly after the initial disclosure, as the insurer is only required to update the disclosure with changes that took place in the previous year. The Department states that the adverse impact to health insurers created by the rule promotes insurer solvency and ensures consumer claims are paid, that the adverse impact to insurers created by the corporate governance disclosure requirement enables the Department to assess the solvency of insurers and promote best practices, and that the annuity forfeiture standards that affect insurance companies who sell annuity products are necessary to provide consumer protections for purchasers.

Recommendations

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

Conclusion

The CSI Office concludes that the Ohio Department of Insurance should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.