

Economic Impact Statement

LSA Document #19-257

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

IC 4-22-2.1-5(a) provides that an agency that intends to adopt a rule under IC 4-22-2 that will impose requirements or costs on small businesses must prepare a statement that describes the annual economic impact of the rule on small businesses after the rule is fully implemented as described in IC 4-22-2.1-5(b). That statement must be submitted to the Small Business Ombudsman at the Indiana Economic Development Corporation. The Small Business Ombudsman is required to review the rule and submit written comments to the agency not later than seven days before the public hearing.

The proposed rule amends 760 IAC 3 regarding Medicare supplement insurance minimum standards. The Indiana Department of Insurance (IDOI) seeks to amend this article based upon changes to federal law. The Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) was signed into law on April 16, 2015. In part, MACRA prohibits the sale of Medicare supplement insurance policies that cover Plan B deductibles to newly eligible Medicare beneficiaries. An individual is "newly eligible" if he or she (1) has attained age 65 on or after January 1, 2020; or (2) first became eligible for Medicare due to age, disability, or end-stage renal disease, on or after January 1, 2020. For newly eligible persons, references in the law to Medicare supplement Plans C and F are deemed references to Plans D and G. Insurers selling these prohibited policies are subject to fines, imprisonment, and/or civil penalties. The proposed rule also creates a new Plan G high deductible plan for newly eligible Medicare beneficiaries.

Estimated Number of Small Businesses Affected:

The proposed rule will impact insurers writing Medicare supplement policies in Indiana, as well as insurance producers licensed to sell these products. The proposed rule may impact 79 foreign insurers and 10 domestic insurers. One of these insurers may meet the definition of small business under IC 5-28-2-6. There are approximately 45,000 insurance producers licensed to sell life and health products in Indiana. It is unknown how many producers meet the definition of small business under IC 5-28-2-6.

Estimated Administrative Costs Imposed on Small Businesses:

The proposed rule will require insurers to update policy forms and file the forms and rates with the IDOI for review. The cost for filing each new Plan G high deductible form for review and approval with the IDOI is \$35 per policy form and \$35 per rate. These fees are required by IC 27-1-3-15(e). Insurers and agents will also update systems as a result of the proposed rule. This cost is expected to be minimal.

Estimated Total Annual Economic Impact on Small Businesses:

The estimated total annual economic impact on small businesses is expected to be \$70 for filing new policy forms and rates with the IDOI.

Justification of Requirements or Costs:

These requirements and costs are necessary. If a state's Medicare supplement program does not provide for the application and enforcement of the National Association of Insurance Commissioner (NAIC) Standards and requirements in 42 U.S.C. §1395ss(b)(1), no Medicare supplement policy may be issued in that state, unless the policy has been certified by the Secretary of the United States Department of Health and Human Services as meeting minimum standards and requirements under the procedures established in 42 U.S.C. §1395ss(a)(1). Title 42 U.S.C. §1395ss(b)(1) provides that Medicare supplement policies issued in a state are deemed to meet the federal requirements if the state's program regulating Medicare supplement policies provides for the application of standards that are at least as stringent as those contained in the NAIC Model Regulation and if the state's requirements are equal to or more stringent than those in subsection 42 U.S.C. §1395ss(c)(2)-(5). The proposed rule is based upon NAIC Model Law 651 (Model 651), which provides for the reasonable standardization of coverage and simplification of terms and benefits of Medicare supplement policies. The NAIC amended Model 651 to include the changes in federal law impacting Medicare supplement policies set forth in MACRA. In order to retain regulatory authority over Medicare supplement policies in Indiana, IDOI must amend 760 IAC 3 to implement these changes. Failure to amend 760 IAC 3 to conform with federal law could result in Indiana losing regulatory authority over Medicare supplement products sold in Indiana. Authority to regulate these products would revert back to the federal government.

Regulatory Flexibility Analysis:

There are no less intrusive or less costly alternative methods for achieving the purposes of the proposed rule. The IDOI determined that amendments based upon recent changes to Model 651 are the most beneficial for the

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