

## Rule Summary and Fiscal Analysis

### Part A - General Questions

**Rule Number:** 3901-5-13

**Rule Type:** Amendment

**Rule Title/Tagline:** Insurance navigator certification and agent exchange requirements.

**Agency Name:** Department of Insurance

**Division:**

**Address:** 50 W Town Street Suite 300 Columbus OH 43215

**Contact:** Tina Chubb **Phone:** (614) 728-1044

**Email:** Tina.Chubb@insurance.ohio.gov

#### **I. Rule Summary**

**1. Is this a five year rule review? Yes**

**A. What is the rule's five year review date? 4/14/2023**

**2. Is this rule the result of recent legislation? No**

**3. What statute is this rule being promulgated under? 119.03**

**4. What statute(s) grant rule writing authority? 3905.471, 3905.47, 3905.12, 3901.041**

**5. What statute(s) does the rule implement or amplify? 3905.471**

**6. Does the rule implement a federal law or rule in a manner that is more stringent or burdensome than the federal law or regulation requires? No**

**A. If so, what is the citation to the federal law or rule? Not Applicable**

**7. What are the reasons for proposing the rule?**

This rule is being reviewed as a part of the agency five-year rule review.

**8. Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

The purpose of this rule is to set forth procedures and requirements for the certification of insurance navigators as recognized by the department as both an individual and business entity, and the requirements for agents who sell health coverage on the exchange.

Proposed amendments will remove the bifurcated fee structure, delay the expiration date of the license to accommodate the timeline of CMS, and to reduce regulatory restrictions.

- 9. Does the rule incorporate material by reference? No**
- 10. If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

*Not Applicable*

- 11. If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

*Not Applicable*

## **II. Fiscal Analysis**

- 12. Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will have no impact on revenues or expenditures.

0.00

Not applicable.

- 13. What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

The Navigator entity application requires a two hundred and fifty dollar initial application fee and a one hundred dollar renewal fee. Individuals also need to successfully complete a criminal background check at both the federal and state level. The department has furnished a list, on the department web site, of locations that do not charge additional processing fees and therefore, at these locations the total price for a background check would be seventy-one dollars per individual.

- 14. Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). No**
- 15. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No**
- 16. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.**

Not applicable.

### **III. Common Sense Initiative (CSI) Questions**

- 17. Was this rule filed with the Common Sense Initiative Office? Yes**
- 18. Does this rule have an adverse impact on business? Yes**
  - A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? Yes**

This rule sets forth procedures and requirements for the certification of insurance navigators as recognized by the department as both an individual and business entity, and the requirements for agents who sell health coverage on the exchange.
  - B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? No**
  - C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes**

Paragraph (D)(7) A business entity insurance navigator must report any change in its name, address, email address, certified insurance navigators, officers, directors, and members or owners with ten per cent or more voting interest in the certified entity to the superintendent within thirty days of such change.
  - D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No**

Removing the bifurcated fee structure would result in decreased expenses for applicable businesses.

**IV. Regulatory Restriction Requirements under S.B. 9. Note: This section only applies to agencies described in R.C. 121.95(A).**

**19. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes**

- A. How many new regulatory restrictions do you propose adding to this rule? 0**
  - B. How many existing regulatory restrictions do you propose removing from this rule? 19**
- (C)(2)(a) shall
- (C)(2)(b) shall
- (C)(2)(b) must
- (C)(2)(c) shall
- (C)(2)(d) shall
- (D)(3) must
- (D)(4) must
- (D)(5) must
- (D)(6) shall
- (D)(7) must
- (D)(8) must
- (D)(9) must
- (D)(11) must
- (E)(1)(a) must
- (E)(1)(b) must
- (G)(1) required

(G)(1) shall

(H) shall not

(H) shall

**C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.**

Not applicable.

**D. Please justify the adoption of the new regulatory restriction(s).**

Not Applicable

3901-5-13

**Insurance navigator certification and agent exchange requirements.****(A) Purpose**

The purpose of this rule is to set forth procedures and requirements for the certification of insurance navigators as recognized by the department as both an individual and business entity, and the requirements for agents who sell health coverage on the exchange.

**(B) Authority**

This rule is promulgated pursuant to the authority vested in the superintendent under sections 3901.041, 3905.12, 3905.47 to 3905.473 of the Revised Code.

**(C) Insurance navigator certification**

- (1) An individual applying for certification as an insurance navigator must comply with the requirements contained in section 3905.471 of the Revised Code.
- (2) An individual applying for certification shall do all of the following:
  - (a) ~~The applicant shall complete~~ Complete at least twenty-four hours of pre-certification education requirements including all of the following, but not limited to;
    - (i) Compliance with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1955, 42 U.S.C.A. 300gg, as amended, and any regulation adopted thereunder;
    - (ii) Ethics;
    - (iii) Provisions of the Patient Protection and Affordable Care Act (ACA), 124 Stat. 119, 42 U.S.C. 18031 (2011);
    - (iv) Levels of coverage available under the ACA;
    - (v) Eligibility requirements to purchase qualified health plans;
    - (vi) Means of appeal and dispute resolution;
    - (vii) Conflict of interest and impartiality;
    - (viii) Exchange privacy policies and requirements;
    - (ix) Individual eligibility requirements for medicaid;

- (x) Advanced premium tax credits and cost sharing reductions;
  - (xi) Publicly funded health care (children's health insurance program, medicaid); and
  - (xii) Eligibility requirements for employers to make insurance available to their employees through the "Small Business Health Options Program" (SHOP) created by division (b)(1)(B) of section 1311 of the ACA.
- (b) ~~The applicant shall successfully~~ Successfully complete a criminal background check pursuant to section 3905.051 of the Revised Code ~~and the results of which must be with~~ satisfactory results upon review by ~~the~~ to the superintendent. Any applicant with a conviction noted in the background check may submit information to the superintendent on why the conviction does not impact their fitness to perform as a navigator.
- (c) ~~The applicant shall successfully~~ Successfully complete a comprehensive exam including pertinent information that is included within the required education credits. This requirement will be met by the successful completion of an examination administered under the regulations implemented by the secretary of health and human services.
- (d) ~~The applicant shall submit~~ Submit an application and disclosure form by which the insurance navigator shall disclose any potential conflicts of interest based upon the regulations implemented by the secretary of health and human services to avoid conflicts of interest.
- (3) If the applicant has met the required education standards set forth by the exchange as defined in division ~~(W)(X)~~ of section 3905.01 of the Revised Code, the applicant shall have subsequently met all education requirements listed in this rule.
- (4) A certified insurance navigator must notify the department of a criminal conviction within thirty days of a court ruled conviction.
- ~~(5) Information regarding individual insurance navigator certification applications (INS3003 rev. 04/2017) can be found on the department website.~~
- (D) Business entity insurance navigator certification

Pursuant to section 3905.471 of the Revised Code, an insurance navigator business entity applying for certification must comply with the following requirements:

- (1) Complete a business entity application and provide information required by the superintendent;
- (2) The applicant has designated a certified insurance navigator who will be responsible for the applicant's compliance with the insurance navigator laws of this state and has certified there are no conflicts of interest, as defined in the regulations implemented by the secretary of health and human services;
- (3) ~~A business entity applicant must certify~~ Certify that all applicants have met the required training, background check, and disclosure standards;
- (4) ~~A business entity must maintain~~ Maintain a list of every individual insurance navigator who is affiliated with the entity;
- (5) ~~A business entity must provide~~ Provide an assigned federal identification number as well as proof of federal funding under division (i) of section 1311 of the ACA;
- (6) If the business entity ceases to exist as a corporate or other legal entity, its insurance navigator certification ~~shall~~ may be revoked;
- (7) ~~A business entity insurance navigator must report~~ Report any change in its name, address, email address, certified insurance navigators, officers, directors, and members or owners with ten per cent or more voting interest in the certified entity to the superintendent within thirty days of such change;
- (8) ~~A business entity applicant must apply~~ Apply for certification under the legal name of the applicant as registered with the Ohio secretary of state. The superintendent may deny the use of a name that is too similar to a name already in use by another business entity or a name that may be misleading to the public;
- (9) ~~The applicant must be~~ Be authorized to do business in the state of Ohio by the Ohio secretary of state if so required by section 1703.03, 1705.54, or 1775.64 of the Revised Code;
- (10) Each business entity applicant for certification as an insurance navigator shall pay ~~the following fees prescribed by the superintendent~~ an initial application fee of two hundred dollars and an annual certification renewal fee of one hundred dollars for each renewal thereafter.
  - (a) ~~For entities with less than one hundred employed insurance navigators~~ an application fee not to exceed two hundred fifty dollars and an annual certification renewal fee not to exceed one hundred dollars for each renewal thereafter, and

~~(b) For entities with one hundred or more employed insurance navigators an application fee not to exceed five hundred dollars for an initial certification and an annual certification renewal fee not to exceed two hundred fifty dollars for each renewal thereafter.~~

~~(11) The applicant must be Be found suitable to be certified by the superintendent.~~

~~(12) Information regarding business entity insurance navigator certification applications (INS3004 rev. 05/2017) can be found on the department website.~~

(E) Certification renewal requirements

(1) Individual and business entity insurance navigator certifications expire annually on ~~July~~ October thirty-first.

(a) Certified insurance navigators must annually submit a renewal application on or before ~~July~~ October thirty-first. ~~The renewal application must include~~ That includes all of the following, but not limited to:

(i) Proof of completion of continuing education which can be demonstrated by completing renewal requirements of the federally-facilitated exchange under the regulations implemented by the secretary of health and human services; and

(ii) A renewal application.

(b) A business entity insurance navigator certification must be renewed annually. The renewal application ~~must~~ needs to include all of the following, but not limited to:

(i) A renewal application; and

(ii) Pay the renewal fee as prescribed in paragraph (D)(10) of this rule.

(c) If an individual or business entity does not apply for the renewal of the individual or business entity's insurance navigator certification on or before the certification renewal date specified in paragraph (E)(1) of this rule, the individual or business entity may submit a late renewal application along with a fifty dollar fee prior to ~~September~~ December first. Failure to submit a late renewal application along with a fifty dollar fee prior to ~~September~~ December first, will result in cancellation of the insurance navigator certificate on ~~September~~ December first.

- (2) The superintendent has the authority to waive any fees required by this rule or reinstate any insurance navigator certificate cancelled pursuant to this rule, due to military service, a long term medical disability, or some other special or extenuating circumstance.
- (3) ~~Information regarding individual insurance navigator renewal certification applications (INS3005 rev 04/2017); and business entity insurance navigator renewal certification applications (INS3006 rev 05/2017) can be found on the department website.~~

(F) A contracted third party acting under the authority of an entity described in paragraph (F) (1), (F)(2), (F)(3) or (F)(4) of this rule, to provide information on the entity's premises to persons not covered under a health benefit plan, or persons acting within the scope of their employment for a:

- (1) Licensed health care provider or a hospital registered with the Ohio department of health;
- (2) Federally qualified health center or a federally qualified health center look-alike as defined in section 3701.047 of the Revised Code;
- (3) Non-profit organization whose primary purpose is the distribution of food stuffs, groceries, donated goods or purchased goods in their community or surrounding communities, to meet the emergency needs of the communities or participating outlets; and
- (4) An agency of the state or a political subdivision as defined in division (D) of section 3905.36 of the Revised Code.

That is not holding itself out as a person or an entity serving as an insurance navigator, are exempt from the requirements of sections 3905.47 to 3905.474 of the Revised Code and this rule.

(G) Agent exchange requirements

- (1) Pursuant to section 3905.47 of the Revised Code, a licensed insurance agent that wishes to sell, solicit, or negotiate a qualified health plan through the exchange must first complete a training program required by the exchange. If the applicant has met the ~~required~~ education standards set forth by the exchange, the applicant ~~shall have~~ has met all initial education requirements.
- (2) A non-resident applicant who has taken substantially similar courses in exchange training within their home state will be deemed to be in compliance with paragraph (G)(1) of this rule.

## (H) Severability

~~If any paragraph, term or provision of this rule is adjudged invalid for any reason, the judgment shall not affect, impair or invalidate any other paragraph, term or provision of this rule, but the remaining paragraphs, terms and provisions shall be and continue in full force and effect. If any portion of this rule or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the rule or related rules which can be given effect without the invalid portion or application, and to this end the provisions of this rule are severable.~~

Effective:

Five Year Review (FYR) Dates: 4/14/2023

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Certification

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Date

Promulgated Under: 119.03  
Statutory Authority: 3905.471, 3905.47, 3905.12, 3901.041  
Rule Amplifies: 3905.471  
Prior Effective Dates: 09/01/2013, 11/04/2018



Common Sense  
Initiative

Mike DeWine, Governor

Jon Husted, Lt. Governor

Joseph Baker, Director

## Business Impact Analysis

Agency Name: Ohio Department of Insurance

Rule Contact Name: Loretta Medved

Rule Contact Information: loretta.medved@insurance.ohio.gov  
1-614-644-0239

Regulation/Package Title (*a general description of the rules' substantive content*):

Insurance navigator certification and agent exchange requirements.

Rule Number(s): 3901-5-13

Date of Submission for CSI Review: March 13, 2023

Public Comment Period End Date: March 25, 2023 12:00 AM

Rule Type/Number of Rules:

- |  |   |
|--|---|
| <input type="checkbox"/> New/      rules                                       | <input type="checkbox"/> No Change/      rules (FYR?      ) |
| <input checked="" type="checkbox"/> Amended/ <u>1</u> rules (FYR? <u>Yes</u> ) | <input type="checkbox"/> Rescinded/      rules (FYR?      ) |

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

## **Reason for Submission**

1. R.C. 106.03 and 106.031 requires agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the Agency determined the rule(s) create?

The rule(s):

- a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. Requires specific expenditures or the report of information as a condition of compliance.
- d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

## **Regulatory Intent**

2. Please briefly describe the draft regulation in plain language.

*Please include the key provisions of the regulation as well as any proposed amendments.*

***This rule establishes procedures and requirements for the certification of insurance navigators as recognized by the department as both an individual and business entity. The Affordable Care Act established navigators as an entity to assist individuals in enrolling in health plans through the federal exchange. Entities in Ohio are selected by the Center for Medicaid Services (CMS) and awarded federal grants to carry out navigator activities. Ohio Revised Code establishes the authority for the department to certify navigators, this rule lays out the process and requirements for certification. This rule also establishes the requirements for agents who sell health coverage on the exchange.***

***Proposed amendments will remove the bifurcated fee structure, delay the expiration date of the license to accomodate the timeline of CMS, and to reduce regulatory restrictions.***

3. Please list the Ohio statute(s) that authorize the Agency to adopt the rule(s) and the statute(s) that amplify that authority.

***Sections 3901.041, 3905.12, 3905.47, and 3905.471 of the Revised Code.***

4. Does the regulation implement a federal requirement?  Yes  No

Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

Yes  No

*If yes, please briefly explain the source and substance of the federal requirement.*

*Not applicable.*

5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

*Not applicable.*

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

*The navigator rule establishes the certification requirements for Ohio's navigators, providing guidance to navigator funding awardees and agents selling health plans on the federal exchange. This rule fosters consumer protection through accountability, as navigators and agents have access to personal consumer information.*

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

*The success of this rule can be monitored by an understanding of the requirements throughout the regulated community and the department receiving a low number of consumer complaints and investigations or enforcement actions.*

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?  Yes  No

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

*Not applicable.*

### **Development of the Regulation**

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation. *If applicable, please include the date and medium by which the stakeholders were initially contacted.*

*On February 23, 2023 the department sent an email to various stakeholders including: the Mid-Ohio Foodbank, consumer groups and associations such as the Ohio Association of Health Plans, the Ohio Insurance Agents Association, the National Association of Insurance and Financial Advisors, and the Ohio Insurance Underwriters Association.*

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

*ODI received the following written comment from Leondria Taty on behalf of CMS / U.S. Department of Health & Human Services:*

*"request that the department revise the date of individual and business entity insurance navigator certification expiration from July 31st to at least October 31st. The annual open enrollment period for the federal health insurance Marketplace begins on November 1st and CMS does not typically release Navigator training, which is required for Navigator license renewal, until August or September. In past years, ODI has extended the licenses of Navigators to accommodate this training release schedule but has not issued updated licenses to Navigators. This creates a situation where Navigators are displaying a license which appears to be expired, which erodes consumer confidence. By changing the date of Navigator license expiration to October 31st, ODI could avoid the need to extend licenses annually and Ohio consumer confidence would be improved."*

*The department has amended the rule to extend the certificate expiration date from July 31<sup>st</sup> to October 31<sup>st</sup>.*

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

*This rule was promulgated to regulate the certification of insurance navigators in Ohio. Navigators were established by the federal Affordable Care Act and require certification by the department as established in Ohio Revised Code. Certification requirements were modeled off of similar requirements to insurance agents. Navigators, like agents, have access to personal information of exchange enrollees and therefore, require similar accountability and education standards to ensure consumer protection.*

12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives? *Alternative regulations may include performance based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.*

*The regulations established in this rule are modeled from processes developed at the national level as well as processes working effectively in Ohio. These standards have been in effect and are known throughout the regulated community.*

13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

*The regulation of insurance agents and certification of Ohio Navigators is exclusive to the department of insurance. The rules in this packet do not duplicate any other rule or statute.*

14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

*The department maintains the licensing and enforcement divisions which oversee the licensing and certification processes and monitor compliance. The department web site contains checklists, applications, and instructions for licensing and certification procedures.*

### **Adverse Impact to Business**

15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:

- a. Identify the scope of the impacted business community; and
- b. Quantify and identify the nature of the adverse impact (e.g., fees, fines, employer time for compliance).

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.*

*The Navigator entity application requires a two hundred and fifty dollar initial application fee and a one hundred dollar renewal fee. Individuals also need to successfully complete a criminal background check at both the federal and state level. The department has furnished a list, on the department web site, of locations that do not charge additional processing fees and therefore, at these locations the total price for a background check would be seventy-one dollars per individual. Completion of the application will depend on the entity or individuals record keeping, as most of the information required should already be available to the applicant, this should take no longer than a few hours. Additional potential impacts include the costs and time associated with continuing education, and potential late renewals, and time to prepare for examination. The rule impacts those who have been approved for funding from the federal government for the navigator program (i.e., nonprofits, local government groups).*

16. Are there any proposed changes to the rule(s) that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors.*)

*The proposed amendment to correct the discrepancy with the certificate expiration date and remove the bifurcated fee structure will reduce burden on certified navigator entities and individuals.*

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

*The rule sets forth the process that the department will use to certify navigators and is consistent with the department's regulation of agents. The goal of the enabling law and this*

*rule is to provide consistent consumer protection as navigators handle consumers personal information and provide assistance.*

### **Regulatory Flexibility**

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

*All businesses and their employees are required to meet the same conduct standards, regardless of size, in order to promote consumer protections and a fair market.*

19. How will the Agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

*Paperwork violations and/or first time offender issues would be dealt with on a case-by-case basis due to the fact that these types of violations could have a serious impact on the consumer. The department has the authority to waive any fees required by this rule or reinstate any certification cancelled pursuant to this rule, due to military service, a long-term medical disability, or some other special or extenuating circumstance, in accordance with Chapter 119. of the Revised Code.*

20. What resources are available to assist small businesses with compliance of the regulation?

*Department staff is available to answer questions, regardless of the size of business. Furthermore, the department has developed FAQ's regarding the navigator process, located on the department webpage.*



# 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,

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[CSIPublicComments@governor.ohio.gov](mailto: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 31<sup>st</sup> to October 31<sup>st</sup> because the annual open enrollment period for the federal Health Insurance Marketplace begins on November 1<sup>st</sup> 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.

## MEMORANDUM

**To:** Michael Bender, Business Advocate, Common Sense Initiative Office

**CC:** Joseph Baker, Director of the Common Sense Initiative Office

**From:** Loretta Medved, Policy Analyst

**Date:** April 14, 2023

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

On April 14, 2023, the Ohio Department of Insurance (the Department) received the Recommendation Memorandum (CSI Recommendation) from the Common Sense Initiative Office for rule 3901-5-13 Insurance navigator certification and agent exchange requirements.

The CSI Recommendation stated that the office does not have any recommendations regarding this rule package, and therefore should proceed with a formal filing of the rule package.

At this time, the Department plans to move forward with the filing of this rule package with the Joint Committee on Agency Rule Review.

If you have any questions please contact Loretta Medved at 614-644-0239 or [Loretta.Medved@insurance.ohio.gov](mailto:Loretta.Medved@insurance.ohio.gov).

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