

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 806 KAR 12:010

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(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides guidelines and requirements for advertising methods of insurance products and policies.

(b) The necessity of this administrative regulation: This proposed regulatory amendment is needed to ensure that insurance advertisements made to the public are of sound measure and in good faith, and that they do not contain deceitful advertising tactics.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.2-110 provides that the Commissioner of Insurance shall make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation clarifies the minimum standards for advertising as set forth in KRS 304.12-010 and 304.12-020.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The proposed amendments to this administrative regulation address exceptions to the requirements set out in Section 19. In many states, property or casualty insurers are not required to file a certificate of advertising with an annual statement. This proposed amendment would make the Department's regulation consistent with that practice, and will also ensure consistency with the Model Law upon which this regulation is based (which is limited in scope to life and health lines, as it relates to accident and sickness policies). The amendments also reflect the newly incorporated Form 440.

(b) The necessity of the amendment to this administrative regulation: This proposed regulatory amendment is needed to alleviate confusion between the regulatory requirements and the Department's policies and procedures.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code, as defined in KRS 304.1-010.

(d) How the amendment will assist in the effective administration of the statutes: The amendments will assist in the effective administration of the referenced statutes by setting forth advertisement filing guidelines for life and health insurers. There was previous language that applied to all insurers, but the Department does not require Property & Casualty companies to meet these filing requirements.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The health or life insurers that are required to file annual statements, including advertisement, as well as the department.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: Insurers who intend to market insurance products must file with the department prior to marketing, in order to ensure that all advertisements meet the criteria of this regulation, as well as other advertising regulations.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: The process set forth in this administrative regulation clarifies a long-standing practice regarding the reporting process. Because insurers have already been complying in this manner, there is no cost to implement this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities: Compliance with this regulation will allow insurers to use advertising materials publically.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Implementation of this amendment is not anticipated to have an initial cost on the Department of Insurance.

(b) On a continuing basis: Implementation of this amendment is not anticipated to have an on-going cost on the Department of Insurance.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department will use funds from its current operational budget to perform the tasks necessary.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase of fees will not be necessary because additional personnel is likely unnecessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not directly establish any new fees.

(9) TIERING: Is tiering applied? Explain why or why not. Tiering is not applied because this regulation applies to all life and health insurers issuing policies for accident or sickness benefits.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Insurance will be impacted as the implementer of the regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.2-110

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation is not expected to generate any revenue in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation is not expected to generate any revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? This administrative regulation will not have a cost to implement in the first year.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will not have a cost to administer subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(4) Revenues (+/-): Neutral

(5) Expenditures (+/-): Neutral

(6) Other Explanation: As the amendments to this administrative regulation clarify an existing process, this administrative regulation will not have a fiscal impact on the Department of Insurance.