

INSURANCE DIVISION[191]

Notice of Intended Action

Proposing rule making related to review of rules and providing an opportunity for public comment

The Insurance Division hereby proposes to amend Chapter 35, “Accident and Health Insurance,” Chapter 40, “Health Maintenance Organizations,” Chapter 55, “Licensing of Public Adjusters,” Chapter 58, “Third-Party Administrators,” Chapter 71, “Small Group Health Benefit Plans,” Chapter 101, “Burial Sites and Cemeteries,” and Chapter 102, “Iowa Retirement Facilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 509.13, 510.9, 513B.1, 514B.23, 514C.4, 522C.3, 523D.10 and 523I.207.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 509, 510, 513B, 514B, 514C, 522C, 523D and 523I.

Purpose and Summary

This proposed rule making is the result of the Division’s ongoing review of rules.

Rule 191—35.21(509) is being updated to be consistent with Iowa Code section 509.1(1), which permits the Commissioner to examine discretionary and nondiscretionary groups to ensure they provide health care benefits that are valuable for Iowa consumers. As health care costs and insurance premiums continue to rise from year to year, the Division has seen an influx of these types of groups. The Division needs the authority to appropriately regulate them and protect Iowa consumers.

The phrase “autism spectrum disorders” is being updated as “autism spectrum disorder” in rule 191—35.40(514C) to conform to 2022 Iowa Acts, House File 2167.

Subrule 40.12(4) is being rescinded since the fee required by this subrule is no longer needed because health maintenance organizations (HMOs) are covered by the Iowa Insurance Guaranty Association pursuant to Iowa Code section 507C.3(7). This fee has not been collected since HMOs were added to the insurers included under Iowa Code section 507C.3.

The proposed new subrule 55.20(7) explains how the examination fee for public adjusters is set. This is the same method used for other licensees under the Division’s authority.

The proposed amendments to Chapter 58 regarding third-party administrators correspond to the standard for insurance producers under Iowa Code section 522B.11(1). These proposed amendments will enable the Division to have more effective oversight of third-party administrators.

A statutory reference is being corrected in subrule 71.14(9).

The proposed amendments to Chapters 101 and 102 correct references and update language.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Division no later than 12 noon on August 3, 2022. Comments should be directed to:

Angela Burke Boston
Iowa Insurance Division
1963 Bell Avenue, Suite 100
Des Moines, Iowa 50315
Phone: 515.654.6543
Email: angela.burke.boston@iid.iowa.gov

Public Hearing

If requested, a public hearing at which persons may present their views orally or in writing will be held as follows:

August 3, 2022
8:30 a.m.

Via conference call

A conference call number will be available prior to the hearing on the Division’s web page at iid.iowa.gov/hearings. Persons wishing to attend the hearing may also contact Angela Burke Boston for hearing information. Persons who wish to make oral comments at the public hearing must submit a request to Angela Burke Boston prior to the public hearing to facilitate an orderly hearing. Persons will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing impairments, should contact Angela Burke Boston and advise of specific needs.

The public hearing will be canceled without further notice if no public hearing is requested by 12 noon on August 2, 2022.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 191—35.21(509) as follows:

191—35.21(509) Review of certificates issued under group policies.

35.21(1) Nondiscretionary groups. A certificate of coverage delivered in this state under a group life or accident and health insurance policy issued to a group substantially as described in Iowa Code ~~section 509.1, subsections (1) to (7), shall~~ sections 509.1(1) to 509.1(7) may not be reviewed by the commissioner if the policy is issued outside of this state.

35.21(2) Discretionary groups. A certificate of coverage delivered in this state under a group life or accident and health insurance policy issued to a group not substantially as described in Iowa Code section 509.1, subsections (1) to (7), shall sections 509.1(1) to 509.1(7) may not be reviewed by the commissioner if the policy is issued outside of this state and if the policy is issued or offered in a state which has reviewed and approved the policy under a statute substantially similar to Iowa Code section 509.1(8).

ITEM 2. Strike “autism spectrum disorders” wherever it appears in rule **191—35.40(514C)** and insert “autism spectrum disorder” in lieu thereof.

ITEM 3. Rescind subrule **40.12(4)**.

ITEM 4. Adopt the following **new** subrule 55.20(7):

55.20(7) The fee for an examination may be set by the outside testing service under contract with the division and must be approved by the division.

ITEM 5. Amend subrule 58.3(2) as follows:

58.3(2) Application.

a. All third-party administrators wishing to do business in Iowa shall electronically file a completed application and any required attachments in the form prescribed by the division. The division may require the applicant to identify the following persons affiliated with the third-party administrator: owners with 10 percent interest or voting interest, and any partners, officers, directors, members or managers of the business entity. The application shall be accompanied by a filing fee as stated in rule 191—58.18(510).

b. All third-party administrator applicants shall submit a completed biographical affidavit, in a form prescribed by the commissioner, for all individuals identified in paragraph 58.3(2) “a.”

~~*c.*~~ Application for resident third-party administrator certificate of registration.

(1) and (2) No change.

~~*d.*~~ Application for nonresident third-party administrator certificate of registration.

(1) to (3) No change.

~~*e.*~~ *e.* The division may refuse to issue a certificate of registration to an applicant as provided in Iowa Code section 510.21, or may refuse to issue a certificate of registration if the division determines that any of the grounds set forth in rule 191—58.16(510) exist with respect to the third-party administrator.

~~*f.*~~ *f.* If an application is approved, the division will electronically deliver to the third-party administrator a certificate of registration.

ITEM 6. Amend subrule 58.16(3) as follows:

58.16(3) The commissioner may deny, suspend, revoke, or not renew a third-party administrator’s certificate of registration if the commissioner finds that the third-party administrator:

a. Has violated or failed to comply with any lawful rule insurance laws or any regulation, subpoena, or order of the commissioner or any provision of the insurance laws of this state the commissioner of another state;

b. No change.

c. Has filed an provided incorrect, misleading, incomplete, or materially untrue information in the license application or any necessary forms with the division that contain fraudulent information or omissions;

d. No change.

e. Has provided insufficient explanation, as determined by the commissioner, of the circumstances surrounding evidence that an owner, principal, officer, partner, manager, director, stockholder, trustee, employee of the third-party administrator any person identified in the application of the third-party administrator pursuant to paragraph 58.3(2) “a” or the third-party administrator itself:

(1) Has had an insurance license, or its equivalent, or an application for an insurance such license in any state denied, suspended, revoked, or not renewed in any other state, province, district, or territory;

(2) and (3) No change.

(4) ~~Has been charged, tried, convicted of, or had a judgment withheld or deferred with respect to, pled guilty or no contest to, or is currently charged with any felony or misdemeanor;~~

(5) ~~Has ever been named or involved as a party in an administrative proceeding, including with any state insurance department, federal agency, or a Financial Industry Regulatory Authority (FINRA) sanction or arbitration proceeding regarding any professional or occupational license or registration.~~

f. to m. No change.

ITEM 7. Amend subrule 71.14(9) as follows:

71.14(9) All carriers shall provide benefits in the standard health benefit plan for the cost associated with equipment, supplies, and education for the treatment of diabetes pursuant to Iowa Code section 514C.14 514C.18.

ITEM 8. Amend rule 191—101.1(523I) as follows:

191—101.1(523I) Purpose. This chapter is intended to implement and administer the provisions of Iowa Code chapter 523I as amended by 2016 Iowa Acts, House File 2394, which regulates burial sites and cemeteries.

ITEM 9. Amend subrule 101.8(12), introductory paragraph, as follows:

101.8(12) Annual report of total return distribution method information. As part of the annual report required by Iowa Code section 523I.813 and rule ~~199—101.9(523I)~~ 191—101.9(523I), a perpetual care cemetery using the total return distribution method shall file an addendum to the annual report related to the total return distribution method, detailing the following:

ITEM 10. Amend rule 191—101.9(523I) as follows:

191—101.9(523I) Filing annual reports.

101.9(1) Annual reports filed by perpetual care cemeteries.

a. Each year between January 1 and April 30, perpetual care cemeteries shall file a complete and accurate annual report for the prior reporting period, in the form and manner required by the division. For purposes of Iowa Code section 523I.813 as amended by 2016 Iowa Acts, House File 2394, section ~~13~~, and of this rule, “reporting period” means a calendar year.

b. No change.

101.9(2) Forms and instructions. Forms and instructions for perpetual care cemeteries filing the annual report required by Iowa Code section 523I.813 as amended by 2016 Iowa Acts, House File 2394, sections ~~12 and 13~~, can be found on the division’s Web site ~~website~~, www.iid.iowa.gov.

ITEM 11. Amend rule **191—Chapter 101**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 523I as amended by 2016 Iowa Acts, House File 2394.

ITEM 12. Amend rule 191—102.3(523D) as follows:

191—102.3(523D) Forms and filings.

102.3(1) Copies of all required forms and instructions are available on the ~~commissioner’s Web site~~ division’s website, www.iid.iowa.gov.

102.3(2) All filings, fees and payments shall be made as directed by the commissioner. Instructions are available at the ~~commissioner’s Web site~~ division’s website, www.iid.iowa.gov.