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Director

Legislative Services Office

Idaho State Legislature

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MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Business Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: September 14, 2015

SUBJECT: Department of Insurance

IDAPA 18.01.27 - Self-Funded Employee Health Care Plans Rule - Proposed Rule (Docket No. 18-0127-1501)

IDAPA 18.01.44 - Schedule of Fees, Licenses, and Miscellaneous Charges - Proposed Rule (Docket No. 18-0144-1501)

IDAPA 18.01.60 - Long-Term Care Insurance Minimum Standards - Proposed Rule (Docket No. 18-0160-1501)

The Department of Insurance submits notice of proposed rulemaking at IDAPA 18.01.27, 18.01.44, and 18.01.60.

18.01.27

This proposed rule amends the existing rule to conform it to statutory changes made in 2013. It also provides clarity and removes duplicative language.

Negotiated rulemaking was conducted. There is no anticipated impact on the state general fund. The Department states that the rulemaking is authorized pursuant to Sections 41-211 and 41-4020, Idaho Code.

18.01.44

This proposed fee rule relates to registration fees for self-funded health care plans and also to fees for licensure exams for producers, public adjusters, and adjusters. The rule clarifies that registration fees for self-funded health care plans apply to all self-funded health care plans. The rule also amends existing language to provide that the fee for licensure exams shall be set forth in a contract between the Department and the third-party testing vendor. Finally, the rule revises language to be consistent with the Idaho Code and makes some technical corrections.

Negotiated rulemaking was conducted, and there is no anticipated fiscal impact on the state general fund. The Department states that the rulemaking is authorized pursuant to Sections 41-211, 41-401, 41-1006(2), 41-4005(4), 41-4011(4), 41-5806(1)(g), and 41-5807, Idaho Code.

18.01.60

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This proposed rule clarifies annual inflation protection requirements applicable to long-term care partnership policies. It also incorporates certain documents by reference.

Negotiated rulemaking was conducted, and there is no anticipated impact on the state general fund. The Department states that the rulemaking is authorized pursuant to Sections 41-211, 41-4608, and 56-1305, Idaho Code.

cc: Department of Insurance
Thomas A. Donovan

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Department of Insurance - 280

Agency Contact: Tom Donovan Phone: (208) 334-4214

Date: Aug. 20, 2015

IDAPA, Chapter and Title Number and Chapter Name:

18.01.44 – SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES

Fee Rule Status: Proposed Temporary

Rulemaking Docket Number: 18-0144-1501

STATEMENT OF ECONOMIC IMPACT:

Fees for self-funded post-secondary secondary educational institution health plans

The department has overseen the registration of certain self-funded health plans (typically non single-employer private plans). Title 41, chapter 40, Idaho Code, was amended in 2013 to provide that post-secondary educational institutional student self-funded health plans could also register with the department. Oversight of these plans will be comparable to that of employer plans, which are assessed an initial and annual \$500 fee. Benefits provided by the plan registration and payment of the fee include maintaining operational viability and financial solvency for the plan beneficiaries.

Fees for producer, adjuster, and public adjuster exams

The department contracts with a vendor to administer insurance producer, adjuster, and public adjuster exams as a prerequisite for licensure. The examination fee is currently set forth by rule at \$60. The rulemaking will seek to revise language concerning the fee for producer, adjuster, and public adjuster exams to allow the fee to be set in a revenue neutral manner to cover the vendor's costs of administering the examination by contract between the department and vendor. There is no increase cost to the Department of Insurance to implement this revised rule. Both currently and after this proposed rule change, the department will not collect or receive any portion of the examination "fee" or cost. The examination cost is borne by a private party (applicant for a license) and paid to a private party (testing vendor).

Fees for public adjusters

The department will charge the same application and biennial licensing fees for public adjusters, added pursuant to title 41, chapter 58, Idaho Code in 2008, as are assessed to producers and adjusters. The fee is appropriate for reviewing applications and maintaining oversight of public adjusters commensurate with that involved for producers and agents.

Fees for solicitation permits

The sections applicable to solicitation permits (Idaho Code § 41-2806 to 41-2808) were repealed in 2003. Idaho Code § 41-2807 set forth requirements for an application and provided for a fee to be paid as provided for by rule. No solicitation permit applications are received by the department since the requirement has been removed from the code and the need for a fee no longer exists.

Fees for service of process

The director is the statutory agent for service of process for foreign insurers and foreign producers. Although common practice is to refer to those selling, soliciting, or negotiating insurance often as agents and brokers, their license category was changed to “producer” many years ago. The fee amount is not changing, just updating the reference to producers. Additionally, a catch-all provision for others for whom the director is designated by statute as the statutory agent for service of process is being included. Examples of others include, fraternal benefit societies, those filing holding company statements, etc. The cost for service of process on foreign insurers is set by statute at \$30. The benefit is that Idaho plaintiffs and those seeking to serve legal process on insurers and others transacting insurance in Idaho have an ability to effectuate service in Idaho.