

## NOTICE OF INTENT

### Department of Insurance Office of the Commissioner

#### **Regulation 100 Coverage of Prescription Drugs through a Drug Formulary (LAC 37:XIII.Chapter 41)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 100 to provide clarification in regards to the requirement of obtaining approval from the commissioner whenever a health insurance issuer implements a modification affecting drug coverage in accordance with Act No. 316 in the 2012 Regular Session.

### Title 37

### INSURANCE

### Part XIII. Regulations

#### **Chapter 41. Regulation 100—Coverage of Prescription Drugs through a Drug Formulary**

#### **§14101. Purpose**

A ....

B. The purpose of the amendment to Regulation 100 is to provide clarification set forth in R.S. 22:1068(F) and R.S. 22:1074(F) in regards to the requirement of obtaining approval from the Commissioner whenever a health insurance issuer modifies health insurance coverage offered in the group and individual markets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 1068(F) and R.S. 22:1074 (F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended LR 45.

#### **§14111. Requirements for the Modification Affecting Drug Coverage**

A. - A5. ...

B. A health insurance issuer shall notify the commissioner in writing of a modification affecting drug coverage 120 days prior to the renewal date of the policy form as to those modifications enumerated in R.S. 22:1061(5) and set forth in § 14111.A herein. A health insurance issuer shall provide the notice of modification affecting drug coverage as provided for in R.S. 22:1068(D)(3) and R.S. 22:1074(D)(3) and shall only modify the policy or contract of insurance at the renewal of the policy or contract of insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended LR 45.

### **§ 14115. Requirements for Modifying a Group Insurance Product**

A. Pursuant to R.S. 22:1068, a health insurance issuer may modify its drug coverage offered to a group health plan if each of the following conditions is met.

1. The modification occurs at the time of coverage renewal.
2. The modification is approved by the commissioner. However, modification affecting drug coverage as defined in R.S. 22:1061(5)(y) and found in §14111.A. of this regulation shall not require approval by the commissioner.
3. The modification is consistent with state law.
4. The modification is effective on a uniform basis among all small or large employers covered by that group health plan.
5. The health insurance issuer, on the form approved by the Department of Insurance, notifies the small or large employer group and each enrollee therein of the modification no later than the sixtieth day before the date the modification is to become effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended LR 45.

### **§14117. Requirements for Modifying an Individual Insurance Product**

A. Pursuant to R.S. 22:1074, a health insurance issuer may modify its drug coverage offered to individuals if each of the following conditions is met.

1. The modification occurs at the time of coverage renewal.
2. The modification is approved by the commissioner. However, modification affecting drug coverage as defined in R.S. 22:1061(5)(y) and found in §14111.A. of this regulation shall not require approval by the commissioner.
3. The modification is consistent with state law.
4. The modification is effective on a uniform basis among all individuals with that policy form.
5. The health insurance issuer, on a form approved by the Department of Insurance, notifies each affected individual of the modification no later than the sixtieth day before the date the modification is to become effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended LR 45.

**§14119. Modification Affecting Drug Coverage**

A. To facilitate the ability of the commissioner to comply with his statutory duty, the commissioner shall have the authority to enter into a contract with any person or entity he deems applicable, relevant and/or appropriate to provide advice and/or make a recommendation to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22: 1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended 45.

**§141120. Effective Date**

A. This regulation shall be effective upon final publication in the Louisiana Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1068(F) and R.S. 22:1074(F).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45.

# **FAMILY IMPACT STATEMENT**

## **Attachment to Regulation 100**

### **COVERAGE OF PRESCRIPTION DRUGS THROUGH A DRUG FORMULARY**

#### **I. Describe the effect of the proposed regulation on the stability of the family.**

The proposed amended regulation should have no measurable impact upon the stability of the family.

#### **II. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children**

The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

#### **III. Describe the effect of the proposed regulation on the functioning of the family.**

The proposed amended regulation should have no direct impact upon the functioning of the family.

#### **IV. Describe the effect of the proposed regulation on family earnings and budget.**

The proposed amended regulation should have no direct impact upon family earnings and budget.

#### **V. Describe the effect of the proposed regulation on the behavior and personal responsibility of children.**

The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

#### **VI. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the rule.**

The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

# **POVERTY IMPACT STATEMENT**

## **Attachment to Regulation 100**

### **COVERAGE OF PRESCRIPTION DRUGS THROUGH A DRUG FORMULARY**

#### **I. Describe the effect on household income, assets, and financial security.**

The proposed amended regulation should have no effect on household income assets and financial security.

#### **II. Describe the effect on early childhood development and preschool through postsecondary education development.**

The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

#### **III. Describe the effect on employment and workforce development.**

The proposed amended regulation should have no effect on employment and workforce development.

#### **IV. Describe the effect on taxes and tax credits.**

The proposed amended regulation should have no effect on taxes and tax credits.

#### **V. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.**

The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

## **PROVIDER IMPACT STATEMENT**

**Attachment to Regulation 100**

### **COVERAGE OF PRESCRIPTION DRUGS THROUGH A DRUG FORMULARY**

**I. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service.**

The proposed amended regulation will have no effect.

**II. The total direct and indirect effect on the cost to the provider to provide the same level of service.**

The proposed amended regulation will have no effect.

**III. The overall effect on the ability of the provider to provide the same level of service.**

The proposed amended regulation will have no effect.

## Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than February 19, 2019 by close of business or by 4:30 p.m. and should be addressed to Claire Lemoine, Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214, faxed to (225) 342-1632. If comments are to be shipped or hand-delivered, please deliver to Poydras Building, 1702 North 3<sup>rd</sup> Street, Baton Rouge, LA 70802.

James J. Donelon  
Commissioner of Insurance

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

<b>Person Preparing Statement:</b> Anita R. Robert	<b>Department:</b> Louisiana Department of Insurance
<b>Phone:</b> (225) 219-0609	<b>Office:</b> Management & Finance
<b>Return Address:</b> P. O. Box 94214 Baton Rouge, LA 70804-9214	<b>Rule Title:</b> Coverage of Prescription Drugs through Drug Formulary
	<b>Effective Date:</b> Upon Publication

**SUMMARY  
(Use Complete Sentences)**

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)**

The proposed rule change will not result in additional costs or savings for state or local governmental units. The purpose of the proposed rule change is to provide clarification regarding the removal of the requirement for health insurers to obtain approval from the Commissioner of Insurance when implementing modifications to health insurance plans affecting drug coverage, in accordance with Act No. 316 of the 2012 Regular Session.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)**

The proposed rule change will not affect revenue collections for state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS. (Summary)**

The proposed rule change will not result in any costs and/or economic benefits to health insurers. The purpose of this amendment is to align the administrative rules with Act 316 of the 2012 Regular Session, regarding the coverage of prescription drugs through a drug formulary. Act 316 removes the requirement of health insurers to obtain approval from the Commissioner when implementing modifications to health insurance plans affecting drug coverage.

**V. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT. (Summary)**

The proposed rule change will not affect competition or employment.

\_\_\_\_\_  
Nicholas Lorusso, Chief Deputy Commissioner  
La. Department of Insurance

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Legislative Fiscal Officer or Designee

\_\_\_\_\_  
Date of Signature

\_\_\_\_\_  
Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriated legislative oversight subcommittee in its deliberations on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the Notice of Intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of the current and proposed rules with amended portions indicated).**

The proposed amended rule change will not result in additional costs or savings for state or local governmental units. The purpose of amending Regulation 100 is to provide clarification in regards to the requirement of obtaining approval from the Commissioner whenever a health insurance issuer implements a modification affecting drug coverage in accordance with Act No. 316 in the 2012 Regular Session. This regulation was amended September 2012; however, sections of the regulation needed to be amended for this clarity.

§14111, §14115, §14117, §14119 removes the approval by the Commissioner for modifications affecting drug coverage.

- B. Summarize the circumstances which require this action. If the action is required by federal regulations, attach a copy of the applicable regulation.**

The Department of Insurance is tasked with administering the Insurance Code, which regulates the business of insurance in all of its phases. The purpose of amending Regulation 100 is to provide clarification in regards to the requirement of obtaining approval from the Commissioner whenever a health insurance issuer implements a modification affecting drug coverage in accordance with Act No. 316 in the 2012 Regular Session.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session:**

- (1) Will the proposed rule change result in any increase in expenditure of funds? If so, specify the amount and the source.**

No increase in expenditure of funds is anticipated as a result of the proposed regulation.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?**

**Yes. If yes, provide documentation.**

**No. If no, provide justification as to why this rule change should be published at this time.**

**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

**I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM ACTION PROPOSED.**

**1. What is the anticipated increase (decrease) in costs to implement the proposed action?**

LDI does not anticipate any implementation costs (savings) as a result of the proposed regulation.

<b>COSTS</b>	<b>FY 18/19</b>	<b>FY 19/20</b>	<b>FY 20/21</b>
<b>OPERATING EXPENSES</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>PROFESSIONAL SERVICES</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>OTHER CHARGES</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>EQUIPMENT</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>MAJOR REPAIR/CONSTR</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>POSITIONS (Number)</b>	<b>0</b>	<b>0</b>	<b>0</b>

**2. Provide a narrative explanation of the costs or savings shown in “A.1” above, including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.**

The proposed rule change will not result in additional costs or savings for state or local governmental units. The purpose of the proposed rule change is to provide clarification regarding the removal of the requirement for health insurers to obtain approval from the Commissioner of Insurance when implementing modifications to health insurance plans affecting drug coverage, in accordance with Act No. 316 of the 2012 Regular Session.

**3. Sources of funding for implementing the proposed rule or rule change.**

<b>SOURCE</b>	<b>FY 18/19</b>	<b>FY 19/20</b>	<b>FY 20/21</b>
<b>STATE GENERAL FUND</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>AGENCY SELF-GENERATED</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>DEDICATED</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>FEDERAL FUNDS</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>OTHER (SPECIFY)</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>

**4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?**

No additional funding is necessary to implement the proposed regulation.

**B. COSTS OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.**

**1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.**

The proposed regulation will have no impact on local governmental revenues.

**2. Indicate the sources of funding of local governmental unit(s) which will be affected by these cost or savings.**

No source of funding is necessary; there is no impact on local governmental units as a result of the proposed regulation.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET  
(Continued)**

**II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS**

**A. What increase (decrease) in revenues can be anticipated from the proposed action?**

The proposed rule change will not affect revenue collections for state or local governmental units.

SOURCE	FY 18/19	FY 19/20	FY 20/21
STATE GENERAL FUND	0	0	0
AGENCY SELF-GENERATED	0	0	0
DEDICATED	0	0	0
FEDERAL FUNDS	0	0	0
OTHER (SPECIFY)	0	0	0
TOTAL	0	0	0

**B. Provide a narrative explanation of each increase or decrease in revenues shown in “A”. Describe all data, assumptions and other methods used in calculating these increases or decreases.**

**III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS.**

**A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.) they may have to incur as a result of the proposed action.**

The proposed rule change will not result in any costs and/or economic benefits to health insurers. The purpose of this amendment is to align the administrative rules with Act 316 of the 2012 Regular Session, regarding the coverage of prescription drugs through a drug formulary. Act 316 removes the requirement of health insurers to obtain approval from the Commissioner when implementing modifications to health insurance plans affecting drug coverage.

**B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.**

**IV. EFFECTS ON COMPETITION AND EMPLOYMENT.**

**Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.**

The proposed rule change will not affect competition or employment.