



OFFICE OF PUBLIC INSURANCE COUNSEL

Melissa R. Hamilton, Public Counsel

July 15, 2020

Via Electronic Mail

Judy Wooten
Life and Health Lines Office
Texas Department of Insurance
333 Guadalupe Street
Austin, TX 78701

**Re: Informal Draft Rules on Consumer Choice Benefit Plan Disclosures
28 TAC §§ 21.3525 - 21.3528, 21.3530, 21.3535, 21.3542 - 21.3544**

The Office of Public Insurance Counsel (OPIC) appreciates the opportunity to comment on the Texas Department of Insurance's (TDI's) informal draft rules on consumer choice health benefit plan disclosures. TDI specifically requested input on the effectiveness of the following disclosure options: requiring a signature on disclosure statements when there is a material change to the state-mandated benefits on renewal (proposed § 21.3530(f)), or requiring a large, bold notice on the disclosure statement stating that the benefits are different than they were at the initial purchase (proposed § 21.3530(a)(4)). OPIC submits the following comments for TDI's consideration.

From the informal draft notice, TDI is considering **either** requiring a signature in proposed § 21.3530(f) **or** requiring a conspicuous notice in proposed § 21.3530(a)(4). OPIC believes that the two options are not necessarily mutually exclusive, but that the rules should clarify the consequences if either disclosure requirement is not met. For example, failure to get a required signature or to have the required notice on the disclosure must not result in the policy or contract lapsing or the consumer losing coverage.

OPIC supports the plain-language disclosure requirement in proposed § 21.3530(a)(4). OPIC suggests that TDI consider adding requirements for where and how the consumer is to receive the disclosure--ideally, it would be provided separately or conspicuously placed at the front of the policy or renewal packet.

Because both a signature and a bold notice can be valuable tools to ensure that consumers understand that the policy or contract is changing, OPIC recommends keeping both the signature requirement in proposed § 21.3530(f) and the disclosure notice in proposed § 21.3530(a)(4). Additionally, OPIC requests that the rule clarify where and how the disclosure is provided, and that the consumer will not be penalized if either requirement is not met. The burden of compliance must be on the health carrier, and any failure on the health carrier's part must protect the consumer's coverage and interests.

Thank you for your attention to our comments. OPIC appreciates your time and consideration. Please feel free to contact my office if you have any questions, or need further information.

Sincerely,



Melissa R. Hamilton
Public Counsel

cc: Chief Clerk, Texas Department of Insurance