



STATE OF DELAWARE
STATE COUNCIL FOR PERSONS WITH DISABILITIES
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The Honorable John Carney
Governor

John McNeal
SCPD Director

MEMORANDUM

DATE: January 31, 2018

TO: Ms. Leslie W. Ledogar, Regulatory Specialist
Department of Insurance

FROM: Ms. Jamie Wolfe, Chairperson
State Council for Persons with Disabilities

RE: 21 DE Reg. 546 [Department of Insurance's Repeal of 18 DE. Admin. Code 906 Proposed Regulation Regarding Use of Credit Information (1/1/18)]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Insurance's proposal to repeal of 18 DE Admin. Code 906 Proposed Regulation Regarding Use of Credit Information, which concerns the use of credit information by insurance companies. The repeal is due to the enactment of HS1 for HB 80 (18 Del. Code §8301 et seq.). The proposed regulation would be repealed on May 1, 2018, the effective date of the new statute. The proposed regulation was published as 21 DE Reg. 546 in the January 1, 2018 issue of the Register of Regulations.

As stated in the synopsis of the public notice, the regulation does not contain some of the requirements of the new statute. In addition, some requirements in Regulation 906 now contradict and are inconsistent with the requirements of the new law. For instance, the regulation states that insurers cannot use bankruptcies that are more than ten (10) years old. The new statute lowers the time to five (5) years. The regulation also states that insurers cannot use suits and judgments that are more than seven (7) years old or the expiration of the applicable statute of limitations, whichever is greater. The new statute lowers the time to the greater of five (5) years or the applicable statute of limitations.

In addition to replacing Chapter 83 (18 Del. C. §§8301 to 8304), the new statute amends 25 Del.C. §2503(a) by adding paragraph ten (10) that prohibits an insurer from increasing the renewal rate on a personal automobile insurance policy sole because the insured in 75 or older and paragraph eleven (11) that prohibits an insurer on a personal automobile insurance policy from charging a higher rate because of a change in marital status due to the death of a spouse.

Repeal of Regulation 906 does not adversely affect the rights of consumers. The new statute is broader in its protections of consumers and insureds overall. The new statute broadly states that its purpose is to protect

consumers in the use of credit information for personal insurance by insurers. Section 8304(a)(1) prohibits an insurer from using “income, gender, sexual orientation, gender identity, education, address, zip code, race, ethnic group, religion, marital status, or nationality of the consumer to calculate an insurance score. The new statute incorporates and expands upon the “extraordinary personal circumstance” from regulation 906 7.3. The statute creates an “Extraordinary Life Circumstances” section that allows an applicant for insurance or an insured to request from an insurer that uses credit information a reasonable exception to the insurer’s rates, rating classifications, tier placement, or information that has been influenced by, inter alia, a catastrophic event; serious illness or injury to the insured or an immediate family member; death of a spouse, parent, or child; divorce; identity theft; unemployment for more than three (3) months through no fault of the applicant or insured; military deployment overseas, and other events as determined by the insurer (18 Del. C. §8305).

In sum, the repeal of Regulation 906 will not adversely affect consumers applying for insurance or those who already have insurance and may reduce denials based on inappropriate factors. For that reason, the SCPD is endorsing the proposed repeal of the existing regulation.

Thank you for your consideration and please contact SCPD if you have any questions regarding our position and observations on the proposed regulation.

cc: Ms. Laura Waterland, Esq.
Governor’s Advisory Council for Exceptional Citizens
Developmental Disabilities Council

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