

Indiana Department of Insurance Budget Submittal for Fiscal Year 2016 and Fiscal Year 2017

IDOI's MISSION STATEMENT

The purpose of the Indiana Department of Insurance (IDOI) is to protect Hoosiers as they purchase and use insurance products to keep protect their assets and their families from loss or harm. Consumers may need assistance with certain claim situations or help in understanding how their policies work. Our other primary obligation is to monitor the financial solvency of the insurance companies domiciled in Indiana so that the legal promises made in insurance policies are honored. To these ends, our IDOI staff is committed to providing exceptional customer service for both our consumers and our companies, and to maintain a fair and objective viewpoint as we examine each issue and circumstance within our jurisdiction.

IDOI'S PRIMARY CUSTOMERS

- Insurance consumers who reside in Indiana
- 154 domestic and 1,533 foreign or alien insurers and health maintenance organizations that operate in Indiana
- More than 156,000 licensed insurance agents, more than 13,000 licensed insurance agencies, 515 insurance agent continuing education providers and 90 prelicensing providers
- Third Party Administrators, Provider Networks, Medical Claims Review, and Utilization Review Organizations operating in Indiana
- Claimants who petition for payment from the Indiana Patient's Compensation Fund for excess damages resulting from medical malpractice and health care providers who participate in the fund
- Other interested parties, including state and federal legislators, the media, other state insurance departments, and Indiana state agencies

IDOI'S MAJOR PROGRAMS

- Intake and resolution of consumer questions and complaints against licensed insurance companies and agents
- Monitoring financial solvency of insurance companies
- Licensing of insurance agents and insurance agencies
- Licensing of insurance companies
- Monitoring market conduct of insurance companies, including investigation and adjudication of company and agent code violations
- Review of insurance policies and other forms and review of insurance rates
- Implementation of Federal Affordable Care Act (ACA) guidelines affecting insurance regulation

- Administration and defense of the Indiana Patient's Compensation Fund which provides payment for certain medical malpractice awards and the maintenance of a malpractice claim database
- Licensure and regulation of bail bond, recovery, and title agents
- Operation of the State Health Insurance Assistance Program (SHIP)
- Administration of Indiana's Long Term Care Partnership Program
- Maintenance of a Mortgage Fraud Database
- Review and approval of continuing education courses and providers
- Administration of the Indiana Mine Subsidence Insurance Fund which provides mine subsidence insurance to Indiana residents who live in certain, vulnerable areas
- Administration of the Indiana Political Subdivision Risk Management Fund which provides liability insurance to political subdivisions

ACCOMPLISHMENTS AND CHALLENGES OVER THE PAST TWO YEARS:

Topic: Insurance recovery and restitution for Indiana consumers

Action: The IDOI takes appropriate disciplinary action against insurance producers, agencies, and companies who violate Indiana Code Title 27 or the insurance regulations set forth in Indiana Administrative Code Title 760.

Results: Aggressive and effective disciplinary action is best reflected in the amount of money the IDOI recovers for consumers. IDOI Consumer Services Division collected \$5,046,912.00 in 2013 in combined consumer recoveries and restitution. To date in 2014, the IDOI has collected \$1,472,280.00 in consumer recoveries and restitution. In addition, the IDOI Enforcement Division has negotiated settlements or obtained administrative judgments for fines and penalties against companies and agents who have violated the Insurance Code. Company fines in 2013 totaled \$47,024 and in 2014 totaled \$34,302.

Topic: Reducing the impact of financial insolvencies

Action: Although a primary goal of the IDOI is to monitor the financial solvency of insurance companies and avoid insolvencies, they do happen, and the focus then shifts to reducing the impact to policyholders. Currently there are three farm mutual insurance companies in the process of dissolving. The Proposals for Dissolution submitted by the board of directors of these companies did not adequately add the return of the remaining surplus to policyholders.

Results: All three companies are now under the Department's oversight to assure surplus is only spent to wind down the operation, and return monies to the policyholders who are the owners of the company. As a result IDOI's Financial Services Division's vigilance these premium dollars will be returned to Hoosier policyholders.

Topic: Reducing the cost of financial examinations

Action: The IDOI is statutorily tasked with examining domestic insurers' financial solvency regularly. The costs of these exams are borne by the insurer being examined. Previously, companies that were in the same holding company and domiciled in different states were examined individually and in different years. The IDOI has implemented a coordinated examination approach for insurance companies within a holding company. This approach involves:

- coordination with other states
- combining and capitalizing on resources from different states
- evaluating the timing of the various exams
- establishing a schedule acceptable to the various states to perform a coordinated exam

For example, WellPoint (Anthem) is a domestic holding company with 55 insurance companies on 3 or 5 year examination schedules. IDOI has worked with the holding company and the various states with subsidiaries to establish a schedule that will have all of the WellPoint subsidiaries with a five year examination schedule on the same coordinated schedule by 2017, and the entities with a three year examination schedule will be on the same coordinated schedule by 2025. Currently, there is an examination of 26 entities occurring that includes entities on both the 3 and 5 year schedule.

Results: These efforts have reduced the cost to companies by reducing company personnel time related to an examination, and time billed by examiners. As a result of the lower costs, the savings can be passed on to insurance consumers.

Topic: Easing the process of renewing insurance producer licenses

Action: The IDOI's Agency Services Division has been tasked with streamlining the efficiency of the licensing process. The following actions have been taken by IDOI's Agency Services Division in the last 18 months to improve the initial licensing process for candidates.

- Completed the conversion of license renewals to birth month to help the producers remember their renewal date not only in Indiana but where they also hold non-resident licenses. Completed the implementation of the paperless process to print licenses on-line through either Sircon or NIPR. (2013, 2014)
- Implemented the 3 hour legislative continuing education requirement of Ethics for producers with Life and Fixed Annuities, Life and Health, and Variable Life and Variable Annuities. (2014)
- Implemented legislative requirements for three new license types: Portable Electronics, Travel Retailer, and Self Storage insurance. (2013, 2014)
- Completed the implementation of electronic applications for Temporary Emergency Adjuster, and Non-resident Designated Home State Adjuster. (2014)
- Began the implementation of a Non-resident Reciprocal limited lines license. (2014)
- Completed the review and rewrite of licensing business rules with Sircon and NIPR to reflect legislative changes. (2014)
- Completed the review and editing of the Agent and Producer Licensing website. (2014)
- Implemented retaliatory license fees for Illinois, California, Connecticut, Massachusetts, and New Jersey. (2013, 2014)

Results: These efforts have reduced the cost to both the IDOI and the insurance producers selling, soliciting, or negotiating insurance in Indiana.

Topic: Market Conduct examinations used to uncover title policy overcharges to consumers

Action: The IDOI Title Division discovered significant premium overcharges to Indiana consumers as it conducted regular audits of agencies and producers. The title premiums being charged were unrelated to risks being insured and misrepresented to consumers the amount of premiums being charged on closing documents. The practice in the Title industry also resulted in underpayment of premium taxes to the State. The title investigations revealed such significant violations that market conduct examinations were begun on several companies/underwriters. The initial examination was of Ticor Title of Florida and those findings and Commissioners Order resulted in significant modifications to the title landscape. The Ticor Title of Florida Order was upheld by the Indiana Court of Appeals and hearing denied by the Indiana Supreme Court. In order to determine whether this overcharge premium was also occurring in other title insurance companies doing business in Indiana, market conduct examinations were opened on Conestoga, Stewart, Old Republic, American Guaranty, First American, Commonwealth, Chicago Title, Lawyers Title, Fidelity and Ticor. In addition, the examination process was expanded to include a large Title Insurance Agency and the preliminary findings have revealed large amounts of premium overcharges to consumers.

Results:

Ticor Title of Florida n/k/a Chicago Title Ins Co.

Final Order Issued by ALJ Webber, September 3, 2010, Court of Appeals upheld

- Supreme Court denied Petition to Transfer
- Premium Tax payments: \$1,508 in unpaid tax plus \$10,000 penalty
- Penalties/Fines/Admin costs: \$50,000 fine/administrative costs
- Attorney Fees/Costs:
- Refund to Consumers: Formula currently submitted by Noble for \$627,306.15. Indiana Consumers over charged by \$351,949.15 plus compound interest of \$275,357.00.

Commonwealth Land Title Ins Co.

Final Order Issued by Commissioner without hearing November 23, 2011; upheld by Court of Appeals; Petition to Transfer pending

- Refunds, Premium Tax, Penalties, Attorney Fees: To be determined

Conestoga Title Insurance Company

- Agreed to pay \$150,000 to the state of Indiana.
- \$100 discount on new title policies through 12/31/15 to consumers with previous Conestoga Policies.

Stewart Title Guaranty Company

Agreed to pay \$150,000 as additional premium tax and not raise rates for simultaneous issue lenders policies prior to 6/1/14.

Old Republic National Title Insurance Co.

Agreed to pay an administrative payment to the DOI for \$150,000 and an additional premium tax payment of \$138,325 plus interest in the amount \$11,066.

Topic: Implementing the Federal Affordable Care Act (ACA)

Action: Since the ACA was passed in March 2010, IDOI has constantly tracked and developed processes to implement new requirements surrounding the ACA. IDOI has provided input and analyzed and responded to the impact of the developing federal regulations in Indiana. During this budget cycle, IDOI began having weekly conference calls with health insurance carriers in the months leading up to their deadline for filing with IDOI plans to be offered on the federal individual or small group (SHOP) exchange. During these calls, IDOI informed or reminded companies of filing requirements, notified them of new federal requirements, and answered questions regarding submissions. Also, IDOI continually advises insurers, legislators, and consumers on health care reform issues.

Results: Indiana has continued to be viewed as an “effective rate review” state by the federal government, which means that the state retains authority as the primary regulator of health insurance policies. IDOI was able to effectively review 975 plans to be offered on the individual exchange for 2015 coverage, and 172 dental plans.

Topic: Establishing an Indiana Navigator Certification and Licensing Program

Action: The IDOI’s Agency Services Division was tasked with implementing legislative requirements for Indiana Navigators to the Affordable Care Act. (2013, 2014)

- Completed a rewrite of the training modules for Navigators and posted the materials on the IDOI Navigator Website. Posted a complete power point presentation covering the training modules for public use in Navigator training.
- Subject matter experts and our contracted examination provider wrote, implemented, the Navigator pre-licensing examination offered at Ivy Tech Education Centers.
- Approved Pre-licensing and Continuing Education Providers.
- Completed a review and rewrite of the IDOI Navigator Website. The website posts daily updates to Navigators and Application Organizations by county.
- Report daily to FFSA the status of licensed navigators.
- Assisted in drafting the Navigator Rules in 760 IAC 1
- Report daily to FFSA the status of licensed navigators.
- Implemented the electronic application process through Sircon.
- Starting the annual electronic renewal of Navigators initially certified in the Fall of 2013.

Results:

The certification and licensing of Navigators ensures that Hoosier consumers who avail themselves of the Federally Facilitated Marketplace or any other available health care coverage can get competent assistance in evaluating the appropriate health care insurance options for themselves and their families.

Topic: Maintaining the availability of health care providers in Indiana through careful stewardship of the Indiana Patient's Compensation Fund

Action: The Patient's Compensation Fund (PCF) had moderate increases to surcharge rates to health care providers in this biennium following prior significant decreases. For 2013, the surcharge for physicians was increased 2.5%, and the hospital surcharge was increased 5.8%. For 2014, physician rates were increased 13.0%, and hospital rates were increased 21.2%. This increase was primarily related to the one-time global settlement of 358 medical malpractice cases committed by one medical care provider in the amount of 63.25 million dollars. This one-time settlement allowed the PCF to conclude decade old claims and provide reasonable compensation to hundreds of Hoosiers. Despite this significant payment, the balance in the PCF remains adequate to compensate victims of medical malpractice. In addition, the PCF is actively working to reduce administrative costs by allowing insurers, which collect surcharges from health care providers and pass them along to the PCF, to file proof of financial responsibility and remit surcharges through the newly designed online system that is one of the first of its kind in the country.

Results: Carefully managing the cost of health care providers' professional liability insurance helps enable health care providers to provide affordable health care to Hoosiers. In addition, maintaining a stable PCF helps attract health care providers to Indiana and induces them to remain in Indiana by protecting their personal assets from potential lawsuits. The IDOI has been able to provide that stability while still providing an important source for recovery of damages by Hoosiers damaged by malpractice.

Topic: Aiding Hoosiers through disaster response and recovery efforts

Action: On January 17, 2013, Governor Pence signed Executive Order 13-09. This Order mandated that all departments of the executive branch complete a Continuity of Operations Plan (COOP) in conjunction with Indiana Department of Homeland Security. The COOP Plan identifies how the IDOI will continue to function in case of an event that will not allow us to continue to work in our current location. In June 2014 IDOI completed its COOP and filed the same with Homeland Security. In addition, IDOI recently completed training seminars to familiarize personnel with the Plan and their respective roles in carrying it out.

Results: IDOI is prepared to continue its mission essential functions in the event of a disaster or emergency that renders its current facilities in Indianapolis or Anderson unworkable.

Topic: Continuing efforts to identify license producers and bail and recovery agents who are behind on child support obligations and to assist the Indiana Department of Child Services (DCS) in collecting these arrearages.

Action: The IDOI regularly receives reports on producers and bail recovery agents with child support arrearages. The IDOI's Enforcement Division suspends the licenses of insurance agents and bail and recovery agents until arrangements are made to pay arrearages.

Results: Due to its partnership with the IDOI, the efficiency of DCS's collection efforts has been increased. By aiding in the collection of back child support, custodial parents are less

dependent on taxpayer-funded assistance programs. Additionally, a serious message has been sent to all agents licensed by the IDOI that failure to meet their child support obligation will have consequences. In 2013, \$69,894.01 was collected for child support, and to date in 2014, \$195,631.45 has been collected.

OBJECTIVES FOR THE NEXT BIENNIUM

Consumer Protection

The IDOI will continue to ensure that insurance producers and companies comply with the statutory and regulatory guidelines designed to provide a healthy competitive insurance marketplace for Hoosier consumers. This regulation includes regular audits of title producers and bail agents, as well as judicious use of market conduct examinations of insurers with egregious or continuing violations of law.

The IDOI will maintain its participation as a member of the National Association of Insurance Commissioner's Market Regulation and Consumer Affairs (D) Committee to monitor developments and directives that affect the department, companies and consumers and will continue to monitor and assess NAIC's renewed emphasis toward market conduct exam accreditation. At the same time, efforts will continue to improve collaboration and uniformity between states to reduce duplication and costs when one company is subjected to several market conduct examinations by multiple states. IDOI Commissioner Robertson will play a national leadership role in this effort as chairman of the NAIC's D Committee.

Financial

Once every five years, the National Association of Insurance Commissioners (NAIC), of which Indiana is a member, does an extensive on-site review of each state department of insurance's ability to properly determine the solvency of the companies domiciled in their state. This financial accreditation process is viewed with great importance in the insurance industry and is vital to all of the companies domiciled in Indiana. The IDOI was last accredited in 2010 and constantly works to maintain standards that will allow IDOI to remain accredited. IDOI is scheduled for its next accreditation in the fall of 2015. Without proper accreditation, Indiana companies could be subject to costly duplicative financial examinations by other states in which they conduct business.

The IDOI will continue to monitor the examination process to reduce unnecessary costs. Furthermore, IDOI will implement additional procedures to allow electronic transmission of financial information to create as efficient a process as possible.

Health Care Reform

IDOI will continue to work to keep consumers, health care providers, health care insurers, and other Indiana state agencies informed on the evolving deadlines and requirements relating to the federal Affordable Care Act (ACA). IDOI will strive to maintain its status as an effective rate review state by the federal government, which means that the state retains authority as the primary regulator of health insurance policies.

Patient's Compensation Fund

The next biennium will bring new challenges to the PCF. There is currently a lawsuit challenging the constitutionality of the cap on damages (1.25m) and a legislative initiative by the Trial Lawyers and other stakeholders to raise the cap by amending the Medical Malpractice Act. The IDOI with the help of the Attorney General's Office will fight the constitutional challenge as an elimination of the cap would quickly lead to the collapse of the PCF. The IDOI is ready to entertain new legislative recommendations not only to the coverage amounts but also to make the medical malpractice procedure more efficient.

Political Subdivision Risk Management Commission

The Commission will continue to provide liability coverage to Indiana political subdivisions having difficulty obtaining proper insurance coverage. This program is administered by the IDOI and marketed through independent insurance agents.

Mine Subsidence Program

The program will evaluate and refine a method of reporting policies electronically that was recently implemented. Further, the program will evaluate its claims handling practices to ensure proper claims payment.

Disaster Response

The IDOI will expand education efforts for consumers before a crisis occurs, train employees to respond when one happens, and communicate with other states to coordinate efforts when appropriate.

Sincerely,

Stephen W. Robertson
Insurance Commissioner