

# Public Notice of Direct Final Rulemaking

Rhode Island Government Register

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**AGENCY:** Office of the Health Insurance Commissioner (“OHIC”)  
**DIVISION:** Insurance  
**RULE IDENTIFIER:** N/A  
**ERLID:** 5640  
**REGULATION TITLE:** Declaratory Rulings and Petitions - OHIC Regulation 4

**RULEMAKING ACTION:** Direct Final

**TYPE OF FILING:** Repeal

**TIMETABLE FOR ACTION ON THE PROPOSED RULE:**

Date of Public Notice: **June 27, 2018**  
End of Comment Period: **July 27, 2018**

**SUMMARY OF PROPOSED ACTION ON THE RULE:**

OHIC proposes repealing this regulation, which is no longer necessary with the transition to the RICR because OHIC can now rely of the Declaratory Ruling regulation promulgated by the Department of Business Regulation, 230-RICR-10-00-3. OHIC does not expect this repeal to be controversial.

**WHERE AMENDMENTS MAY BE INSPECTED:**

A copy of the proposed repeal will be available for examination from June 27, 2018, through July 27, 2018, by mail or at the offices of the Department of Business Regulation, Attn: Amy Stewart, Esq., 1511 Pontiac Avenue, Cranston, Rhode Island 02920, or requested by emailing [amy.stewart@dbr.ri.gov](mailto:amy.stewart@dbr.ri.gov) or by calling Amy Stewart at (401) 462-9619. Electronic copies of the proposed repeal will also be available on the DBR website at [www.dbr.ri.gov](http://www.dbr.ri.gov) and Secretary of State’s at <http://sos.ri.gov/ProposedRules/>. A copy of the proposed repeal is also found below in the body of this webpage.

**COMMENTS:**

Interested persons may submit written objections to the proposed repeal of this regulation. If no objection is received on or before July 27, 2018, the Department will file the repeal without opportunity for public comment and the repeal will be effective on July 27, 2018. Any written objections should be sent to the following addresses and must be received no later than 11:59 PM on July 27, 2018.

[amy.stewart@dbr.ri.gov](mailto:amy.stewart@dbr.ri.gov)

OR

Department of Business Regulation  
Legal Division  
Attn: Amy Stewart  
1511 Pontiac Ave, Bldg 68-1

**FOR FURTHER INFORMATION CONTACT:**

Amy Stewart, Esq., at (401) 462-9619, or at the email or mailing address listed above.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Analysis:**

These proposed amendments will result in no impact upon small businesses.

**Authority for This Rulemaking:** R.I. Gen. Laws §§ 42-14.5-1 et seq., 42-14-5, and 42-14-17.

**Regulatory Findings:**

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

**The Proposed Amendment:**

Consistent with the above Summary of Proposed Action on the Rule, the Office of the Health Insurance Commissioner proposes to repeal OHIC Regulation 4 - Declaratory Rulings and Petitions as specifically shown in the attached redlined document.

**State of Rhode Island and Providence Plantations**  
**OFFICE OF THE HEALTH INSURANCE COMMISSIONER**  
**1511 Pontiac Avenue, Bldg 69-1**  
**Cranston, RI 02920**

**OFFICE OF THE HEALTH INSURANCE COMMISSIONER REGULATION 4**  
**DECLARATORY RULINGS AND PETITIONS**

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***Section 1 — Authority***

This regulation is promulgated pursuant to R.I. Gen. Laws §§ ~~42-14.5-1 et seq.~~, ~~42-14-5,~~ ~~42-14-17,~~ ~~42-35-1 et seq.~~

***Section 2 — Purpose***

This regulation is promulgated to establish procedures to implement R.I. Gen. Laws § ~~42-35-8~~ concerning the filing and prompt disposition of petitions for declaratory rulings as to the applicability of any statutory provision or of any rule or order of the Office of the Health Insurance Commissioner (“OHIC”).

***Section 3 — Definitions***

When used in this regulation, the following words shall have the following meaning:

- (a) “Filer” shall mean the person(s) or entity that files a request for Declaratory Ruling or a Petition for Promulgation, Amendment or Repeal of any rule or regulation with the Department.

***Section 4 — Declaratory Rulings***

- (a) ~~General.~~ Pursuant to R.I. Gen. Laws § ~~42-35-8~~, any interested person may petition OHIC for a declaratory ruling. OHIC shall consider the petition. Within a reasonable time OHIC shall, in its sole discretion, take one of the following actions:

- (1) ~~Issue a declaratory ruling; or~~
- (2) ~~Solicit written argument from the filer and any other person(s) that OHIC reasonably believes would be interested in the issues; or~~
- (3) ~~Set a reasonable time and place for hearing argument upon the matter and give reasonable notification to the filer and any other person(s) that OHIC~~

reasonably believes would be interested in the issue(s) of the time and place for such hearing and of the issues involved.

If either subsection (2) or (3) above is utilized, OHIC shall within a reasonable time after receipt of written submission or after the hearing is held issue a binding declaratory ruling.

~~(b) Form of Petition. Any interested person petitioning OHIC for a declaratory ruling shall generally adhere to the following requirements for such purpose:~~

- ~~(1) Petitions may be submitted electronically or in hard copy.~~
- ~~(2) At the top of the page shall appear the wording "Before the Office of the Health Insurance Commissioner." On the left side of the page below the foregoing, the following caption shall be set out: "In the Matter of the Petition of (name of the petitioning party) for a Declaratory Ruling." Opposite the foregoing caption shall appear the word "Petition."~~
- ~~(3) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and the address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set out the state of facts relied upon in form similar to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the prayer of the petitioner. The petition shall be subscribed and verified in the manner prescribed for verification of complaints in the superior courts of this state.~~
- ~~(4) Petitions shall clearly identify the filer and/or his or her authorized representative and the date of submission of the petition.~~
- ~~(5) If submitted in hard copy the original and two (2) copies shall be filed with OHIC and petitions shall be on 8 and 1/2 x 11" white paper.~~

**Section 5 — *Petitions for Promulgation, Amendment or Repeal of any Rule or Regulation***

~~(a) General. Pursuant to R.I. Gen. Laws § 42-35-6, any interested person may petition OHIC requesting the promulgation, amendment or repeal of any rule or regulation. Where the petition requests the promulgation of a rule or regulation, the requested or proposed rule must be set out in full. The petition must also include all the reasons for the requested rule or regulation together with briefs of any applicable law. Where the petition requests the amendment or repeal of a rule or regulation presently in effect, the rule or regulation or the applicable portion thereof in question must be set out as well as a suggested amended form, if any. The petition must include all reasons for the requested amendment or repeal of the rule or regulation. All petitions shall be considered by OHIC. Within a reasonable time OHIC shall, in its sole discretion, take one the following actions:~~

- ~~(1) Issue a declaratory ruling; or~~
- ~~(2) Solicit written argument from the filer and any other person(s) that OHIC reasonably believes would be interested in the issue(s). OHIC will, thereafter, issue a declaratory based upon the written submissions; or~~

- ~~(3) Set a reasonable time and place for hearing argument upon the matter and give reasonable notification to the filer and any other person(s) that OHIC reasonably believes would be interested in the issues of the time and place for such hearing and of the issues involved.~~

~~If either subsection (2) or (3) above is utilized, OHIC shall within a reasonable time after receipt of written submission or after the hearing is held issue a binding declaratory ruling.~~

~~(b) Form of Petition. Any interested person petitioning OHIC requesting the promulgation, amendment or repeal of any rule or regulation shall generally adhere to the following form for such purpose:~~

- ~~(1) Petitions may be submitted electronically or in hard copy.~~
- ~~(2) At the top of the page shall appear the wording "Before the Office of the Health Insurance Commissioner." On the left side of the page below the foregoing, the following caption shall be set out: "In the Matter of the Petition of (name of petitioning party) for (state whether promulgation, amendment or repeal) of (identity rule or regulation)." Opposite the foregoing caption shall appear the word "Petition."~~
- ~~(3) The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and whether petitioner seeks the promulgation of a new rule(s) or regulation(s). The second paragraph, in case of a proposed new rule or regulation or amendment of an existing rule or regulation shall set forth the desired rule or regulation in its entirety. Where the petition is for amendment, the proposed amendments shall be set forth in a manner which clearly indicates the additions and deletions proposed. Where the petition is for repeal of an existing rule or regulation, such shall be stated and the rule or regulation proposed to be repealed shall be referred to by its number. The third paragraph shall set forth concisely the reasons for the proposal of petitioner and shall contain a statement as to the interest of the petitioner in the subject matter of the rule or regulation. Additional numbered paragraphs may be used to give full explanation or petitioner's reasons for the action sought.~~
- ~~(4) Petitions shall clearly identify the filer and/or his or her authorized representative and the date of submission of the petition.~~
- ~~(5) If submitted in hard copy the original and two (2) copies shall be filed with OHIC and petitions shall be submitted on 8 and 1/2 x 11" inch white paper.~~

~~**Section 6 — Effective Date**~~

~~This regulation shall be effective as of June 24, 2009.~~