

## HEALTH INSURANCE ORDER

On March 25, 2020, the Director of the Department of Consumer and Business Services for the State of Oregon (“Director”), acting under the authority in ORS 731.870, issued an order directing all insurers transacting insurance in Oregon to extend deadlines for reporting claims, institute grace periods for premium payment, suspend all cancellations and non-renewals, and provide other specified relief to Oregon insureds. On April 23, 2020, the Director extended the duration of the March 25 order to be in effect through May 23, 2020.<sup>1</sup>

The Director has determined that the outbreak of novel coronavirus (COVID-19) in Oregon, which resulted in a state of emergency,<sup>2</sup> continues to substantially interfere with the public’s ability to carry on its normal course of business. The Director therefore issues this Health Insurance Order (“Order”) to all insurers<sup>3</sup> transacting health insurance<sup>4</sup> in Oregon (“health insurers”), extending and modifying the relief health insurers are to provide to Oregon insureds.

This Order is directed to all insurers that provide any type of health insurance coverage in Oregon, with the exception of accidental death and dismemberment, disability, and long term care coverage. The Order applies to all health insurance policies issued or delivered in Oregon, excluding accidental death and dismemberment, disability, and long term care insurance policies.

This Order takes effect on May 5, 2020, and will be in force through June 3, 2020. This Order terminates the March 25, 2020, order for health insurers offering coverage other than accidental death and dismemberment, disability, and long term care insurance policies. For all other insurance companies and all other lines of insurance, the March 25 order continues in force through May 23, 2020.

The Director hereby notifies health insurers that if the circumstances warrant an extension, the Department will extend the duration of this Order for subsequent additional periods of 30 days.

The Director FINDS that:

1. On March 8, 2020, Oregon Governor Kate Brown signed Executive Order 20-03, which declares a state of emergency due to the COVID-19 outbreak in Oregon under ORS 401.165.
2. On March 23, 2020, Oregon Governor Kate Brown signed Executive Order 20-12, ordering Oregonians to stay at home, closing specified retail businesses, requiring social distancing

---

<sup>1</sup> References to the March 25 order in the present Order include the extension issued on April 23.

<sup>2</sup> See Oregon Governor Kate Brown’s Executive Order declaring a state of emergency (EO No. 20-03), issued March 8, 2020. EO 20-03 can be found at the following URL:

[https://www.oregon.gov/gov/Documents/executive\\_orders/eo\\_20-03.pdf](https://www.oregon.gov/gov/Documents/executive_orders/eo_20-03.pdf)

<sup>3</sup> The term “insurer” is defined in ORS 731.106. For purposes of this order, the term includes all insurance companies, health care service contractors, Multiple Employer Welfare Arrangements, and all similar entities engaged in the business of insurance in Oregon.

<sup>4</sup> The term “health insurance” is defined in ORS 731.162.

measures for other public and private facilities, and imposing requirements for outdoor areas and licensed childcare facilities.<sup>5</sup>

3. The COVID-19 outbreak in Oregon has resulted in widespread disruption to the normal course of business in the state. These changes have disrupted the personal affairs of nearly all Oregonians and the activities of nearly all Oregon businesses.
4. The resulting widespread business closures, job losses, and social distancing measures severely affect the ability of individuals and businesses in Oregon to conduct normal activities, including timely premium payment and timely communications regarding claims submission and processing. Individuals experiencing lengthy hospitalizations, quarantines, or complying with guidance to stay at home may be effectively unable to pay premiums or communicate claims information for an extended period. Businesses ordered to close or constrain their operations for an extended period, or that experience major cash flow disruptions because of the outbreak, may experience similar difficulties.
5. Providing, as a temporary measure, for extended grace periods for premium payments, postponement of cancellations and non-renewals, relief from reporting and other required communications related to claims submission and processing for insureds, and relief from other duties of insureds that may be burdensome, will help mitigate the negative impact of the COVID-19 outbreak on Oregonians and Oregon's economy.
6. The disruption to the normal course of business caused by the outbreak will continue for at least the period of time that the Order will be in force, and can be expected to affect all geographic regions of the state.

The Director CONCLUDES that:

7. Pursuant to ORS 731.870, when the Governor declares a state of emergency under ORS 401.165, the Director has the authority to issue an order addressing the following issues:
  - a. Reporting requirements for claims;
  - b. Grace periods for payment of insurance premiums and performance of other duties by insureds; and
  - c. Temporary postponement of cancellations and non-renewals.
8. An order issued under ORS 731.870 may not be effective for more than 30 days, but may be extended at the Director's discretion if circumstances warrant it for an additional period of not more than 30 days or for subsequent additional periods of not more than 30 days.
9. Pursuant to Oregon Administrative Rules 836-050-0300 and 836-050-0305, authorized by ORS 731.870, the circumstances of the declared state of emergency, as described in paragraphs 1 to 6 in this Order, prevent: insureds from using normal methods of reporting claims; payment of insurance premiums and performance of other duties; and communication

---

<sup>5</sup> EO 20-12 can be found at the following URL: [https://www.oregon.gov/gov/Documents/executive\\_orders/eo\\_20-12.pdf](https://www.oregon.gov/gov/Documents/executive_orders/eo_20-12.pdf)

of notices of cancellation or nonrenewal from insureds to their insurers and communication from insurers to their insureds.

Now therefore, the Director ORDERS:

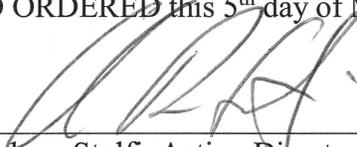
10. All health insurers must take the following actions regarding reporting of claims and other communications with insureds regarding claims, until the date this Order is no longer in effect:
  - a. Extend all deadlines for insureds to report claims or submit other communications related to claims. Deadlines that must be extended include, but are not limited to, deadlines to submit initial claims or to respond to communications related to claims payment and processing, grievances and appeals, or utilization review requirements.
  - b. Insurers must take all practicable steps to provide opportunities for insureds to report claims or provide required communications related to claims via methods compatible with social distancing recommendations, including telephonic and online communications and postal mail.
  
11. Except as provided in paragraph 12, health insurers issuing health insurance policies in Oregon must give policyholders a minimum grace period of 60 days to pay any premium payments that are subject to this Order.
  - a. For purposes of this Order, premium payments that are subject to this Order are the following:
    - i. Any premium amounts that, under the terms of a health insurance policy, will be due from the policyholder while this Order is in effect but that are not paid by the due date;
    - ii. Any premium amounts that, under the terms of a health insurance policy, became due from the policyholder while the March 25 order was in effect but that were not paid by the due date; and
    - iii. Any premium amounts that, under the terms of a health insurance policy, were due from the policyholder prior to the March 25 order, were not paid as of March 25, 2020 and for which the insurer did not issue a notice of termination prior to March 17, 2020.
  - b. The required minimum grace period begins on the day the premium would have been due under the terms of the policy and runs for 60 consecutive calendar days.
  - c. Nothing in this Order prevents a health insurer from providing a policyholder with a grace period longer than 60 days. Insurers that choose to offer longer grace periods must do so in a nondiscriminatory manner and may not consider health status or claims experience of the policyholder.
  
12. Individual health insurance policies purchased using advance premium tax credits (APTCs) must be provided a 3 month grace period in accordance with applicable federal law.

13. Health insurers must take the following actions regarding cancellations and non-renewals:

- a. Suspend all involuntary cancellations and non-renewals for all health insurance policies, with the exception of policies that have completed the applicable grace period required under paragraphs 11 and 12 in this Order.
- b. The suspension of involuntary cancellations and non-renewals under this Order does not apply to policies for which a notice of cancellation or non-renewal was sent prior to March 17, 2020.
- c. Pay claims incurred during first month of a grace period, according to the terms of the policy. During this period, insurers may not pend claims solely due to non-payment of premium, and may not recoup or claw back payment for claims incurred during this period.<sup>6</sup>
- d. Following the end of a grace period, a health insurance policy may be cancelled or non-renewed, subject to the following requirements:
  - i. A health insurer may not retroactively terminate a policy to a date any earlier than last day of first month of the grace period.
  - ii. A health insurer must provide notice of termination in accordance with the terms of the policy and the Oregon Insurance Code.<sup>7</sup>
- e. For health insurance policies extended beyond the normal date of cancellation or non-renewal as a result of this Order or the March 25 order, the premium for extended coverage may be determined by a health insurer in accordance with the terms of the policy, if applicable.
- f. For duration of the Order and following the Order, an insurer may not cancel or non-renew a policy solely because of a claim directly resulting from the circumstances of the COVID-19 outbreak, except in cases of fraud or intentional misrepresentation of a material fact as prohibited by the terms of the plan.

14. Nothing in this Order shall be construed to relieve insureds of the obligation to pay premium according to the terms of the insurance policy.

SO ORDERED this 5<sup>th</sup> day of May 2020

  
\_\_\_\_\_  
Andrew Stolfi, Acting Director and Insurance Commissioner  
Department of Consumer and Business Services

<sup>6</sup> Insurers may pend claims that are missing information critical to processing the claim. An incomplete or illegible provider signature does not constitute critical information for claims processing. After payment, insurers may audit claims paid to ensure no additional information is necessary for the claim record. Insurers are not permitted to use the audit process to recoup or claw back payment for claims incurred during this period solely because the insured did not pay the premium.

<sup>7</sup> See, e.g., ORS 743B.320, 743B.323 and 743B.330.