

BEFORE JAMES A. DODRILL, INSURANCE COMMISSIONER
OF THE STATE OF WEST VIRGINIA

In the Matter of:

**COVID-19 STATE OF EMERGENCY,
WORKERS COMPENSATION INSURANCE**

Emergency Proceeding: 20-EO-03

EMERGENCY ORDER

NOW COMES JAMES A. DODRILL, Insurance Commissioner for the State of West Virginia, by virtue of the authority vested in him pursuant to the Proclamation of the Governor of West Virginia issued March 16, 2020, and pursuant to *W.Va. Code* §§ 33-2-10a and 33-2-21(c), who does **FIND** and **DECLARE** as follows:

1. On March 13, 2020, the President of the United States declared a National Emergency in relation to the novel Coronavirus 2019 (COVID-19) pandemic;
2. On March 13, 2020, the Insurance Commissioner entered Emergency Order 20-01 declaring that an insurance emergency exists in the State of West Virginia, which insurance emergency declaration remains in full force and effect;
3. On March 16, 2020, the Governor of West Virginia issued a Proclamation declaring a State of Emergency for every county in the State of West Virginia with respect to the novel Coronavirus 2019 (COVID-19) pandemic, which State of Emergency remains in full force and effect;
4. As set forth in the March 16, 2020, Proclamation, the Governor delegated to all state agencies the authority to suspend rules if strict compliance therewith would in any way prevent, hinder or delay necessary action in coping with the emergency;

5. Due to recommendations and guidance by the Centers for Disease Control and the West Virginia Department of Health and Human Resources, Bureau for Public Health, and now due to the issuance by the Governor of West Virginia of Executive Order No. 09-20, many citizens of West Virginia are self-quarantining, working remotely, practicing various forms of social distancing and staying in their homes;

6. Workers' compensation insurers and other regulated entities must assess and review their plans of preparedness and plans for continuity of operations to manage the risk of disruption to their operations arising from COVID-19 and actively seek to mitigate the risk of harm to policyholders and claimants. However, the Commissioner recognizes that workers' compensation insurers and other regulated entities may have a limited or otherwise adversely impacted workforce available as a result of the pandemic and governmental action, or may otherwise request or require that employees limit direct or personal contact with others, including vendors, third-party contractors, claimants or policyholders; and

7. Further, many citizens of West Virginia may be quarantined, isolated, unable to work, working reduced hours or subject to the Governor's stay-at-home order during the State of Emergency and because of the mandates or limitations of Executive Orders 2-20, 3-20, 4-20, 5-20, 6-20, 7-20, 8-20 and 9-20. Despite the fact that that insurance institutions, healthcare, and public health operations have been designated as essential businesses during the State of Emergency, many insurers are operating with a limited or reduced workforce and many hospitals, medical or healthcare provider offices have deferred or suspended non-emergent procedures or treatment due to recommendations from state and federal public health organizations, including the Centers for Disease Control and the West Virginia Department of Health and Human Resources, Bureau for Public Health.

Inasmuch as an insurance emergency and the Governor's declared State of Emergency continue to exist in the State of West Virginia, it is hereby **ORDERED** that normal time standards for claims handling applicable to workers' compensation insurers and other regulated entities as set forth in Title 85, Series 1, Section 10, of the *West Virginia Code of State Rules* are suspended in the State of West Virginia until further notice, provided that workers' compensation insurers and other regulated entities shall continue to adjust workers' compensation claims as expeditiously as possible during the insurance emergency and shall utilize all possible methods of adjusting claims remotely, such as telephone, email, facsimile, and mobile applications, all the while striving to meet normal time standards for the adjustment and resolution of claims whenever possible. Workers' compensation insurers and other regulated entities shall prioritize claims adjustment and resolution strategies during this insurance emergency to ensure that high priority claims are addressed before lower priority claims.

It is further **ORDERED** that workers' compensation insurers and other regulated entities shall not terminate or suspend a claimant's temporary total disability benefits for failure to undergo examinations or needed treatment pursuant to Title 85, Series 1, Section 14 of the *West Virginia Code of State Rules* during this insurance emergency. The Commissioner recognizes that many medical and healthcare providers have closed offices, deferred or suspended all non-emergent procedures or treatment during the State of Emergency, and that claimants may have difficulty in continuing ongoing care or treatment or obtaining an examination, or may be quarantined or staying in their homes in compliance with Executive Order 9-20, and as a result, opt to forego all but the most necessary of medical treatment due to the COVID-19 crisis.

Finally, it is **ORDERED** that workers' compensation insurers and other regulated entities shall immediately review Executive Order 7-20 issued by the Governor on March 19, 2020, and further evaluate their telehealth or telemedicine programs in light thereof in order to ensure that they are being utilized to the fullest extent possible. The use of telehealth or telemedicine can potentially reduce barriers for treatment as virtual office visits have been identified as a way of safely treating

certain patients or claimants while containing or limiting the spread of infection at hospitals, clinics and medical offices. Telehealth services or telemedicine may not be possible or appropriate for all claimants, but may be a useful tool to evaluate or treat some claimants during this crisis.

This Emergency Order shall remain in force and effect until further notice. The Commissioner will continue to review and assess circumstances as they arise or change, and will amend, revise or rescind this Emergency Order, in full or in part, as necessary or appropriate.

ENTERED this 23rd day of March, 2020.



James A. Dodrill
Insurance Commissioner