

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

In the Matter of:

**COVID-19 and Emergency Order 20-EO-01,
Emergency Order 20-EO-02, Emergency Order 20-EO-03,
Emergency Order 20-EO-04, and Emergency Order 20-EO-06.**

Emergency Proceeding: 20-EO-09

EMERGENCY ORDER

NOW COMES JAMES A. DODRILL, Insurance Commissioner of the State of West Virginia (“Insurance Commissioner”), by virtue of the authority vested in him pursuant to West Virginia law and the Proclamation of the Governor of West Virginia issued March 16, 2020, does **FIND** and **DECLARE** as follows:

1. 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, and in which the Governor recognized that it was of utmost importance for all Cabinet Secretaries, Commissioners and Directors have the ability to take all measures necessary to ensure the safety of citizens in this state, recognized that agencies can suspend certain rules that prohibit them from operating effectively, and 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;

2. Through a series of Executive directives, the Governor of West Virginia has lifted or rescinded certain provisions of *Executive Order 09-20*, known as the *Stay Home Order* through a process of reopening dubbed *West Virginia Strong: The Comeback*, which has and is allowing

various business and private sectors of the State's economy to resume operations, with modifications;

3. The Insurance Commissioner, under the provisions of Chapter 33 of the *West Virginia Code* has broad authority to regulate the insurance industry in West Virginia, specifically including but not limited to, insurance companies, insurance brokers, agents (producers) and/or insurance agencies;

4. While the State of Emergency continues to exist in West Virginia, and while it remains essential for citizens of West Virginia to continue to self-quarantine, isolate, practice various forms of social or physical distancing, and utilize personal protective equipment ("PPE") in order to stem the transmission of COVID-19, the Governor has permitted many business and private sectors of the State's economy to resume operations, with modifications.

Therefore, after review, consideration and in consultation with state healthcare authorities where appropriate, it is hereby **ORDERED** that the following *Emergency Orders* of the Insurance Commissioner are **MODIFIED** or **RESCINDED** as follows:

1. *Emergency Order 20-EO-01*, regarding the COVID-19 insurance emergency, and *Emergency Order 20-EO-04*, regarding emergency insurance adjusters are **RESCINDED** in their entirety.

2. *Emergency Order 20-EO-02* is **MODIFIED** to rescind that portion of the order prohibiting an insurer from issuing a cancellation notice or nonrenewal notice pertaining to any insurance policy, plan or contract if the reason for cancellation or nonrenewal is a result of circumstances stemming from the COVID-19 pandemic and the corresponding State of Emergency, *Executive Order 2-20*, any subsequent executive orders or other governmental actions. The remainder of *Emergency Order 20-EO-02*, as set forth below, remains in full force and effect:

- a. Insurers and other regulated entities should consider the difficulties experienced by both private citizens and businesses as a result of the State of Emergency and COVID-19 pandemic with respect to collection of premiums, cancellations,

nonrenewals, claim or other documentation, rating or rates charged, and other requirements or policy provisions including, but not limited to, notifications of hospital admissions or similar notifications, due dates or required documentation relating to claims, premium payments, optional service fees, prior authorization requirements and limitations on prescription drug refills.

- b. Workers' compensation insurers shall consider the impact on rates of any idling of workers by employer insureds, and insurers shall, if requested by the employer insured, conduct a premium review or audit to determine whether the insured is entitled to any adjustment in premium due to the idling, furloughing, laying off or other dismissal of workers.
- c. Insurers and other regulated entities should be flexible with respect to allowing alternative payment arrangements for the satisfaction of premiums that are due or that which may become delinquent because of the State of Emergency or COVID-19 pandemic. However, nothing herein shall be construed to exempt or excuse an insured from the obligation to pay the premiums otherwise due for insurance coverage or benefit provided or received.

3. *Emergency Order 20-EO-03* is **MODIFIED** to: (a) rescind the portion which suspended 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*; and (b) rescind the prohibition against workers' compensation insurers and other regulated entities terminating or suspending 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*. The remaining provision of *Emergency Order 20-EO-03*, which requires workers' compensation insurers and other regulated entities to review Executive Order 7-20, issued by the Governor on March 19, 2020, and evaluate telehealth or telemedicine programs to ensure they are being utilized to the fullest extent possible, remains in full force and effect.

4. *Emergency Order 20-EO-06a*, which previously replaced *Emergency Order 20-EO-06*, is **MODIFIED** to permit door-to-door/in-home solicitation of new insurance business or other door-to-door/in-home insurance activity or transactions to resume so long as proper PPE is utilized by the insurance producer, agent or other insurance company representative, and proper physical or social distancing is observed. The Insurance Commissioner continues to encourage the utilization of

remote transactions, if at all possible, and discourages no-notice visits or “cold calls” at the private residences of potential customers without first attempting engagement by telephone, U.S. Mail, electronic mail or other means.

5. Any *Emergency Order* not modified or rescinded by this directive remains in full force and effect until further notice. The Insurance 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 15th day of October, 2020.



James A. Doherty
Insurance Commissioner