



OFFICE OF
INSURANCE COMMISSIONER

EMERGENCY ORDER NO. 21-01

TO: ALL HEALTH CARRIERS AUTHORIZED OR ADMITTED TO OFFER HEALTH PLANS IN WASHINGTON STATE THAT ARE REGULATED BY THE INSURANCE COMMISSIONER

FROM: MIKE KREIDLER, INSURANCE COMMISSIONER

RE: PROVIDING A SPECIAL ENROLLMENT PERIOD FOR OFF-EXCHANGE HEALTH PLANS

PURSUANT TO RCW 48.02.060(4), the Insurance Commissioner of the state of Washington (“Insurance Commissioner”) orders all health carriers authorized or admitted to offer health plans in Washington State that are regulated by the Insurance Commissioner (hereafter “Regulated Entities”), as follows:

- A. While this Order is in effect, all Regulated Entities shall provide a special enrollment period for all health plans offered off the Washington state health benefit exchange. The special enrollment period will apply to all individuals seeking health insurance coverage, but it does not apply to those who already have health insurance coverage under a health plan. Individuals seeking coverage during this special enrollment period that select coverage by the 15th of the month will begin receiving coverage the first of the following month.

BASIS

1. On February 29, 2020, the Governor issued Proclamation 20-05 declaring an emergency related to the COVID-19 outbreak. The proclamation provides in pertinent part as follows (emphasis added):

I, Jay Inslee, Governor of the state of Washington, as a result of the above noted situation, and under Chapters 38.08, 38.52 and 43.06 RCW, do hereby proclaim that a State of Emergency exists in all counties in the state of Washington, and direct the plans and procedures of the Washington State Comprehensive Emergency Management Plan be implemented. State agencies and departments are directed to utilize state resources and to do everything reasonably possible to assist affected political subdivisions in an effort to respond to and recover from the outbreak.

2. Similarly, on January 28, 2021, President Biden issue an Executive Order on Strengthening Medicaid and the Affordable Care Act, stating in relevant part:

The coronavirus disease 2019 (COVID-19) pandemic has triggered a historic public health and economic crisis. In January of 2020, as the COVID-19 pandemic was spreading, the Secretary of Health and Human Services declared a public health emergency. In March of 2020, the President declared a national emergency. Although almost a year has passed, the emergency continues — over 5 million Americans have contracted the disease in January 2021, and thousands are dying every week. Over 30 million Americans remain uninsured, preventing many from obtaining



necessary health services and treatment. Black, Latino, and Native American persons are more likely to be uninsured, and communities of color have been especially hard hit by both the COVID-19 pandemic and the economic downturn.

3. President Biden's Executive Order directed the Secretary of Health and Human Services to establish a special enrollment period for the federal marketplace based on applicable federal law. This special enrollment period is to last between February 15, 2021, and May 15, 2021.
4. Further, the Washington Health Benefit Exchange ("Exchange") announced that it would establish a special enrollment period for Washington consumers on the exchange that would mirror the period established in President Biden's Executive Order.
5. However, neither President Biden's executive action nor the actions of the Exchange govern special enrollment for off-exchange health plans in Washington. These off-exchange plans fall under the authority of the Insurance Commissioner, who will hereby act to protect consumers and strengthen the insurance marketplace.
6. The COVID-19 outbreak continues to harm the health, safety and welfare of Washington citizens who have been rendered ill or whose lives or employment have been otherwise disrupted by the COVID-19 outbreak in the state of Washington.
7. The geographical extent of this state of emergency is the entire state of Washington.
8. RCW 48.02.060(4)(d) provides in pertinent part that, when the Governor proclaims a state of emergency under RCW 43.06.010(12), the Insurance Commissioner may issue an order that addresses any or all of the following matters related to insurance policies issued in this state: (d) medical coverage related to access to care.
9. RCW 48.02.060(5) provides that an order by the Insurance Commissioner under subsection (4) of this section may remain effective for not more than sixty (60) days unless the Insurance Commissioner extends the termination date for the order for an additional period of not more than thirty (30) days. The Insurance Commissioner may extend the order if, in the Insurance Commissioner's judgment, the circumstances warrant an extension. An order of the Insurance Commissioner under subsection (4) of this section is not effective after the related state of emergency is terminated by proclamation of the Governor under RCW 43.06.210. The order must specify, by line of insurance: (a) the geographic areas in which the order applies, which must be within but may be less extensive than the geographic area specified in the Governor's proclamation of a state of emergency and must be specific according to an appropriate means of delineation, such as the United States postal service zip codes or other appropriate means; and (b) the date on which the order becomes effective and the date on which the order terminates.
10. Emergency action by the Insurance Commissioner is necessary to protect the health, safety and welfare of Washington citizens affected by the COVID-19 outbreak in the state of Washington.

ORDER

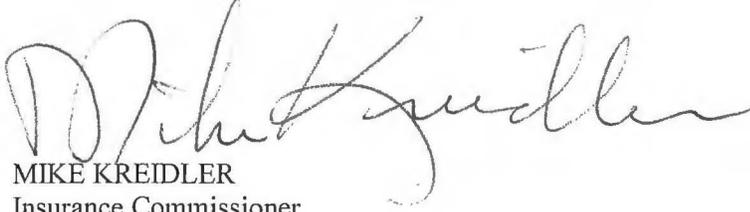
NOW, THEREFORE, the Insurance Commissioner hereby activates the provisions of RCW 48.02.060(4)(d) in order to protect the health, safety and welfare of Washington citizens affected by the

COVID-19 outbreak in the state of Washington, as set forth above. The geographical extent of this Emergency Order is the entire state of Washington.

This Order shall remain in effect until **April 6, 2021**, subject to the further order of the Insurance Commissioner extending its effect.

THIS ORDER IS EFFECTIVE IMMEDIATELY AND IS ENTERED at Olympia, Washington, this

4 day of Feb, 2021.



MIKE KREIDLER
Insurance Commissioner