



OFFICE OF
INSURANCE COMMISSIONER

EMERGENCY ORDER NO. 20-02

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

FROM: MIKE KREIDLER, INSURANCE COMMISSIONER

RE: CLARIFYING AND EXPANDING ON THE REQUIREMENTS OF EMERGENCY ORDER 20-01, ORDERING INCREASED FLEXIBILITY REGARDING THE USE OF TELEMEDICINE AND PROVIDING A MINIMUM 60 DAY GRACE PERIOD FOR PAYMENT OF PREMIUMS

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 or short term limited duration medical plans in Washington State that are regulated by the Insurance Commissioner (hereafter “Regulated Entities”), as follows, between March 24, 2020, and May 23, 2020:

- A. The Office of Civil Rights of the United States Department of Health and Human Services is effectively permitting the use of non-HIPAA compliant platforms to provide telehealth. All Regulated Entities shall allow in-network providers to use non-HIPAA compliant communication platforms to provide patient care, to the extent that 1) the provider and their patient are not already using a HIPAA compliant platform, or 2) the regulated entity is not making HIPAA compliant platforms available to all in-network providers, or 3) the use of a HIPAA compliant platform offered by the regulated entity is not readily and easily available to the provider or enrollee. All Regulated Entities shall treat the use of audio-only telephone as telemedicine, despite contrary language in RCW 48.43.735(8)(g).
- B. All Regulated Entities shall cover prior to application of any deductible and without cost-sharing diagnostic test panels for influenza A & B, norovirus and other coronaviruses, and respiratory syncytial virus (RSV), when any of this testing is determined medically necessary by the enrollee’s health care provider, and when billed in conjunction with a COVID-19 related diagnosis code.
- C. All Regulated Entities shall cover as a “provider visit” under Directive A of Emergency Order 20-01, issued on March 5, 2020, services of a health care provider within their scope of practice, or under the supervision or direction of a health care provider within their scope of practice, to assess symptoms and obtain biological samples from enrollees at a drive-through site established for testing and assessment of COVID-19. When testing is performed

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as part of such a visit, the testing shall be covered so long as such testing is a) approved by either the U.S. Food and Drug Administration (FDA) or Washington State Department of Health, b) performed by in-network providers, and c) provided as ordered by an enrollee's health care provider.

- D. When an enrollee is determined to be ready for discharge from a hospital, and insufficient time exists for long-term care facility or home health services that will follow discharge to receive approval prior to delivery of care, all Regulated Entities must treat this as an extenuating circumstance, which eliminates the requirement for prior authorization of services under WAC 284-43-2060(2)-(3). For other covered services necessary for discharge to a long-term care facility or home that are subject to prior authorization, Regulated Entities must treat these requests for prior authorization as expedited prior authorization requests under WAC 284-43-2050(10)(b).
- E. For individual and group health plans, other than qualified health plans purchased by individuals receiving an advanced premium tax credit through the Health Benefit Exchange, in effect or expiring during the period of Governor Inslee's Proclamation 20-05, Regulated Entities must allow a grace period for payment of premiums no less than sixty (60) days. If a Regulated Entity chooses to allow a grace period longer than sixty days, such grace period must be applied uniformly to all health plans and to all enrollees within any given health plan. Any communication from Regulated Entities addressed to enrollees during the grace period must clearly state the enrollee's obligation to pay back premiums or potentially be subject to billing from health care providers for unpaid claims, and must clearly state the Regulated Entity's obligations during the grace period, in light of the state of emergency and emergency orders issued by the Governor or the Office of the Insurance Commissioner.

BASIS

1. On February 29, 2020, Governor Inslee 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. The COVID-19 outbreak has harmed or threatened to harm the property, 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.
3. The geographical extent of this state of emergency is the entire state of Washington.

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4. RCW 48.02.060(4) 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: (b) grace periods for payment of insurance premiums and performance of other duties by insureds; (c) temporary postponement of cancellations or nonrenewals, and (d) medical coverage to ensure access to care.
5. 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.
6. Emergency action by the Insurance Commissioner is necessary to protect the property, 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)(b), (c) & (d) in order to protect the property, 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 May 23, 2020, subject to the further order of the Insurance Commissioner extending its effect.

THIS ORDER IS EFFECTIVE IMMEDIATELY AND IS ENTERED at Olympia, Washington, this 24th day of March, 2020.



MIKE KREIDLER
Insurance Commissioner