



GOBIERNO DE PUERTO RICO

Oficina del Comisionado de Seguros

8 de enero de 2020

CARTA NORMATIVA NÚM. CN-2020-253-D

A TODOS LOS ASEGURADORES, ORGANIZACIONES DE SERVICIOS DE SALUD AUTORIZADOS A CONTRATAR SEGUROS EN PUERTO RICO, SUS AGENTES GENERALES, CLUBES O ASOCIACIONES DE AUTOMOVILISTAS, PROVEEDORES DE CONTRATOS DE SERVICIO, SOCIEDADES FRATERNALES Y PÚBLICO EN GENERAL

PERIODO DE GRACIA DE PAGO DE PRIMAS Y POSPOSICIÓN TEMPORERA DE CANCELACIÓN DE PÓLIZAS POR FALTA DE PAGO

Estimados señores y señoras:

El 7 de enero de 2020, la Gobernadora de Puerto Rico, Honorable Wanda Vázquez Garced, emitió la Orden Ejecutiva Número OE-2020-001, decretando un estado de emergencia a consecuencia de la actividad sísmica experimentado en Puerto Rico. En atención a la referida orden ejecutiva, y de conformidad con los poderes y facultades conferidos al Comisionado de Seguros bajo las disposiciones del Artículo 2.030 de la Ley Núm. 77 de 19 de junio de 1957, según enmendada, el Comisionado de Seguro por la presente formula las siguientes directrices, en protección del mejor interés público.

“Posposición Temporera de Cancelación de Póliza o Contrato de Seguros- se establece que, mientras dure el estado de emergencia, ningún asegurador de propiedad o contingencia podrá cancelar por falta de pago de primas, dentro del término de treinta (30) días de la fecha de vencido el pago, una póliza o contrato de seguro en la línea de negocios de propiedad y contingencia colocado en Puerto Rico. En aquellas líneas de negocio que de ordinario la póliza o contrato de seguro goza de un periodo de gracia de pago de treinta (30) días, tales como vida, salud y/o incapacidad, el asegurador, a su discreción, podrá ampliar dicho periodo de gracia por el término de treinta (30) días adicionales, en beneficio del asegurado.

Por otro lado, un asegurador no podrá denegar la renovación de una póliza o contrato de seguro por falta de pago de prima, en aquellos casos en que el asegurado haya solicitado dicha renovación, durante el estado de emergencia. El pago de la prima correspondiente a la renovación de la póliza deberá ser realizado dentro del término de treinta (30) días, a partir de la fecha de efectividad de la renovación de la póliza. Como excepción a la norma general y en consideración a la emergencia actual, nada de lo anterior se considerará como una rebaja o incentivo prohibido por el Capítulo 27 del Código de Seguros o la Regla Núm. 29 de su Reglamento. Tal excepción se circunscribe a la práctica de rebaja o incentivo de prima



reglamentado en las antes mencionada regulación y no deberá ser interpretado como exoneración del cumplimiento de cualquier de otra sus disposiciones.

Se aclara que tal determinación no implica un relevo del pago de la prima. Una vez culmine el periodo de gracia, el asegurado deberá cumplir el pago de prima correspondiente al término vencido de pago.

Toda notificación de cancelación de póliza por falta de pago, emitida o enviada al asegurado por el asegurador o la entidad que financió la prima de la póliza, durante el estado de emergencia deberán ser retiradas. De no ser recibido el pago de la prima correspondiente dentro del término de extensión de pago concedido en esta carta normativa, la póliza podrá ser cancelada. En el caso de póliza de propiedad y contingencia financiada por una entidad financiera de prima, la cancelación de la póliza será retroactiva a la fecha en que la entidad que financió la prima originalmente envió el aviso de cancelación al asegurador. No empece lo anterior, una póliza podrá ser cancelada, antes de la terminación del estado de emergencia, por solicitud escrita del asegurado.

“Penalidades”- Los aseguradores autorizados en Puerto Rico no deberán aplicar penalidades ni denegar cubierta, mientras dure el estado de emergencia, a sus asegurados o beneficiarios de pólizas por la falta de pago de primas. Igualmente, en casos de pago de primas a través de débito directo o cuenta de cheques, se deberá eximir del pago de penalidades por insuficiencia de fondos.

Las disposiciones contenidas en esta Carta Normativa comenzaran a regir a partir de la fecha de decretado el estado de emergencia el 7 de enero de 2020, hasta que la fecha en que termine el estado de emergencia o el Comisionado de Seguros suspenda sus efectos, lo que ocurra primero.

Se apercibe a todos los aseguradores de epígrafe que la presente normativa no les exime del cumplimiento con las demás disposiciones del Código de Seguros, Ley Núm. 77-1957, *supra*, en todo aquello que no contravenga con las directrices y criterios aquí esbozados. Se requerirá el más estricto cumplimiento con las directrices aquí indicadas. El incumplimiento con las referidas directrices acarreará la imposición de severas sanciones.

Cordialmente,



Javier Rivera Ríos, LUCTF
Comisionado de Seguros



GOBIERNO DE PUERTO RICO

Oficina del Comisionado de Seguros

8 de enero de 2020

CARTA NORMATIVA NÚM. CN-2020-254-D

A TODAS LAS ORGANIZACIONES DE SEGUROS DE SALUD O ASEGURADORES QUE SUSCRIBEN PLANES MÉDICOS EN PUERTO RICO, SUS ADMINISTRADORES DE BENEFICIOS DE FARMACIA, ORGANIZACIONES DE REVISIÓN DE UTILIZACIÓN Y OTROS AGENTES O TERCEROS ADMINISTRADORES

RE: PAGO DE PRIMAS, MANEJO DE DESPACHO DE MEDICAMENTOS, PROVEEDORES FUERA DE LA RED, PREAUTORIZACIONES, REFERIDOS Y RECLAMACIONES DE PROVEEDORES, ASEGURADOS Y SUSCRIPTORES

El 7 de enero de 2020 la Gobernadora de Puerto Rico, Honorable Wanda Vázquez Garced, emitió la Orden Ejecutiva Número OE-2020-001, decretando un estado de emergencia a consecuencia de la actividad sísmica experimentado en Puerto Rico. En atención a la referida orden ejecutiva, y de conformidad con los poderes y facultades conferidas al Comisionado de Seguros bajo las disposiciones del Artículo 2.030 del Código de Seguros, emitimos las siguientes directrices:

Periodo de Gracia para Pago de Prima – Las organizaciones de seguros de salud o aseguradores que suscriben planes médicos deberán proveer periodo de gracia no menor de treinta (30) días para el pago de primas. Tal determinación no implicará un relevo del pago de la prima. Igualmente, en casos de pago de primas a través de débito directo o cuenta de cheques, se deberá eximir del pago de penalidades por insuficiencia de fondos. Lo anterior no impide el que se llegue a acuerdos de pago voluntarios con los asegurados y suscriptores.

Despacho de medicamentos - Las organizaciones de seguros de salud o aseguradores que suscriben planes médicos con cubierta de farmacia deberán suspender cualquier requisito utilizado para el manejo del despacho de medicamentos, (excluyendo a los medicamentos controlados), servicios y/o tratamientos médicos contenidos en la cubierta de farmacia o beneficios de servicios de salud a los que la persona cubierta o asegurado tiene derecho conforme a la cubierta de su plan médico.

Esto incluye la suspensión de tiempo de espera para obtener repeticiones, suspensión de requisitos para el despacho de medicamentos de manera extendida, suspensión de requisitos de preautorización de medicamentos, requisitos de terapia escalonada, requisitos de limitación por especialidad médica, y requisitos de limitación en cantidad de medicamentos, entre otros.

Se apercibe que el asegurador o el PBM, según sea el caso, tendrá la responsabilidad de pago por las reclamaciones sometidas por un farmacéutico o un titular de un permiso de artefacto médico



respecto al pago o reembolso de los medicamentos dispensados o despachados, bajo una solicitud de repetición de receta, o del artefacto, durante el periodo de emergencia, de conformidad a lo dispuesto en la Ley Núm. 274-2018.

Proveedores fuera de la red – Las organizaciones de seguros de salud o aseguradores que suscriben planes médicos deberán permitir el acceso a servicios de salud a través de proveedores no participantes o no contratados, sin aplicar penalidades o restricciones. Una reclamación será procesable para pago cuando corresponda a un servicio prestado por un proveedor, “sea proveedor participante o no participante” del asegurador u organización de seguros de salud, por servicios de cuidado de salud (incluyendo tanto condiciones físicas como mentales), sean o no servicios de emergencia, siempre y cuando estén cubiertos por el plan médico de la persona cubierta o asegurado y el proveedor luego de prestado el servicio presente la información requerida por el asegurador u organización de seguros de salud para procesar el pago de la reclamación. La revisión para determinar si la información en el expediente clínico del proveedor reclamante corresponde a los servicios de cuidado de la salud que figuran en la reclamación será retrospectivamente, entendiéndose luego de que el servicio de cuidado de salud fue prestado.

Preautorizaciones y referidos - Las organizaciones de seguros de salud o aseguradores que suscriben planes médicos deberán suspender los requisitos de preautorizaciones, referidos o revisiones de necesidad médica. Esto comprende todos los servicios de salud contemplados en la cubierta, incluyendo equipo médico.

Término para la presentación de reclamaciones –Las organizaciones de seguros de salud o aseguradores que suscriben planes médicos deberán extender los términos aplicables para que los proveedores presenten reclamaciones de pago por servicios de salud prestados o recibidos.

Las directrices aquí establecidas tendrán vigencia desde la fecha de decretado el estado de emergencia el 7 de enero de 2020, hasta que la fecha en que termine el estado de emergencia o el Comisionado de Seguros suspenda sus efectos, lo que ocurra primero.

Se requiere el estricto cumplimiento con las directrices aquí establecidas. El incumplimiento con las referidas directrices acarreará la imposición de sanciones severas.

Cordialmente,



Javier Rivera Ríos, LUCTF
Comisionado de Seguros



Public Health Emergency Declaration

The Secretary of the Department of Health and Human Services (HHS) may, under section 319 of the Public Health Service (PHS) Act, determine that: a) a disease or disorder presents a public health emergency (PHE); or b) that a public health emergency, including significant outbreaks of infectious disease or bioterrorist attacks, otherwise exists.

Duration and Notification: The declaration lasts for the duration of the emergency or 90 days, but may be extended by the Secretary. Congress must be notified of the declaration within 48 hours, and relevant agencies, including the Department of Homeland Security, Department of Justice, and Federal Bureau of Investigation, must be kept informed.

Prior to issuing the declaration, the Secretary should consult with public health officials as necessary.

Following a section 319 declaration, the Secretary can:

Take appropriate actions in response to the emergency consistent with other authorities, including: making grants; entering into contracts; and conducting and supporting investigations into the cause, treatment, or prevention of the disease or disorder. Upon request of the recipient of any such award and subject to corresponding reductions in payments, the Secretary may also provide supplies, equipment, and services, and detail employees of the Department to the recipient to aid the recipient in carrying out the award.

Access “no-year” funds appropriated to the Public Health Emergency Fund to rapidly respond to immediate needs resulting from the PHE, or to rapidly respond to a potential PHE when the Secretary determines that there is a significant potential for a PHE. The Fund may be used to facilitate coordination among federal, state, local tribal, and territorial entities and public and private health care entities affected by the PHE; to make grants, provide for awards, enter into contracts and conduct investigations including further supporting the Public Health Emergency Preparedness, Hospital Preparedness and Regional Health Care Emergency Preparedness awards; facilitate and accelerate advanced research and development of medical countermeasures; strengthen biosurveillance and laboratory capacity; support initial emergency operations related to preparation and deployment of National Disaster Medical System teams; and carry out other activities determined applicable and appropriate by the Secretary. The Secretary must report to Congress 90 days after the end of the fiscal year about any funds spent from the Public Health Emergency Fund, the emergency for which funds were spent, and activities undertaken with respect to the emergency. Public Health Emergency Funds supplement, but do not supplant, other Federal, State, and local funds provided for public health grants, awards, contracts, and investigations.

Enable the Centers for Disease Prevention and Control Director to access the Infectious Diseases Rapid Response Reserve Fund (when funds are so appropriated) to prevent, prepare for, or respond to an infectious disease emergency, either when the Secretary has declared a public health emergency or when the Secretary determines that the emergency has significant potential to imminently occur and potential on occurrence, to affect national security or the health and security of US citizens, domestically, or internationally.

Public Health Emergency

[PHE Frequently Asked Questions](#)
[List of Public Health Emergency Declarations](#)
[1135 Waivers](#)

Legal Authorities

[Legal Authorities Overview](#)
[Legal Authority of the Secretary](#)
[Emergency Use Authorization](#)
[Pandemic and All-Hazards Preparedness Act](#)
[Pandemic and All-Hazards Preparedness Reauthorization Act](#)
[Pandemic and All-Hazards Preparedness and Advancing Innovation Act \(PAHPAIA\)](#)
[Public Readiness and Emergency Preparedness \(PREP\) Act](#)
[PREP Act Frequently Asked Questions](#)

Grant extensions or waive sanctions relating to submission of data or reports required under laws administered by the Secretary, when the Secretary determines that, wholly or partially as a result of a public health emergency, individuals or public or private entities are unable to comply with deadlines for such data or reports. The Secretary must notify Congress and publish a Federal Register notice before or promptly after granting an extension or waiver.

Waive or modify certain Medicare, Medicaid, Children's Health Insurance Program (CHIP), and Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule requirements. Under section 1135 of the Social Security Act (SSA), the Secretary may waive or modify certain requirements as necessary to ensure to the maximum extent feasible that, in an emergency area during an emergency period, sufficient health care items and services are available to meet the needs of individuals Medicare, Medicaid, and CHIP, and that providers of such services in good faith who are unable to comply with certain statutory requirements are nonetheless reimbursed and exempted from sanctions for noncompliance, absent fraud, or abuse. There must also be a Presidential declaration of an emergency or disaster in order to exercise this authority.

Adjust Medicare reimbursement for certain Part B drugs. Most Medicare Part B drugs are paid on the basis of the manufacturer's average sales price (ASP), which manufacturers are required to report quarterly. The ASP-based payment allowance is updated prospectively each quarter, using the data manufacturers report. The statutory scheme results in a two-quarter lag between the date of the reported sale and the date that sale's price is factored into the Medicare reimbursement rate. In the case of a public health emergency in which there is a documented inability to access drugs and biologicals and a concomitant increase in the price of a drug or biological that is not reflected in the manufacturer's ASP for one or more quarters, the Secretary may use the wholesale acquisition cost or other reasonable measure of drug or biological price instead of the manufacturer's ASP. The substituted price or measure may be used until the price of the drug or biological has stabilized and is substantially reflected in the manufacturer's ASP. As of April 2013, CMS has not formally interpreted, nor exercised, this authority. However, in the event of a public health emergency in which this authority were triggered, the price change could be implemented without rulemaking. (See Section 1847A(c)(5)(C) of the Social Security Act, which states that notwithstanding any other provision of law, the Secretary may implement any of the provisions of Section 1847A by program instruction or otherwise.)

Make temporary (up to one year or the duration of the emergency) appointments of personnel to positions that directly respond to the public health emergency when the urgency of filling positions prohibits examining applicants through the competitive process.

Use funds from the fiscal year 2019 appropriation to HHS that are available for salaries and expenses of HHS employees to pay travel and related expenses of an employee or family member when the employee is assigned to duty in the U.S. or in a U.S. territory during a period and in a location that are the subject of a public health emergency declaration, and travel is necessary to obtain medical care for an illness, injury, or medical condition that cannot be adequately addressed in that location at that time.

Enable the Secretary of Defense, in consultation with the Secretary, to deploy military trauma care providers providing care at high-acuity trauma centers pursuant to grants awarded under section 1291 of the PHS Act.

Waive certain Ryan White HIV/AIDS program requirements (section 2683 of the PHS Act). Under this authority, up to five percent of the funds available under each of the Parts A and B supplemental pools may be shifted to ensure access to care during a public health emergency declared by the Secretary under section 319 of the PHS Act or an emergency or disaster declared by the President under the Stafford Act or the National Emergencies Act in the geographic area where the emergency, major disaster, or public health emergency exists. In addition, the Secretary may waive such requirements of title XXVI of the PHS Act to improve the health and safety of those

receiving care under this title and the general public. This waiver authority is limited to the time period for which the emergency, major disaster, or public health emergency declaration exists.

Modify practice of telemedicine. The Ryan Haight Online Pharmacy Consumer Protection Act and implementing regulations allow the Secretary, with concurrence of the DEA Administrator, to designate patients, patient locations, and use of controlled substances during a public health emergency declared by the Secretary.

On a State by State basis, as the circumstances of the emergency reasonably require and for the period of the emergency, grant an extension or waive application deadlines or compliance with any other requirement of certain SAMHSA grants. Such grants include those authorized under sections 521, 1911, or 1921 of the PHS Act. This authority also applies to allotments authorized under Public Law 99-319.

Allow State and local governments to access the General Services Administration (GSA) Federal supply schedule when using federal grant funds. GSA policy allows state, local, and tribal government grantees to use federal supply schedules to respond to public health emergencies declared by the Secretary. Pursuant to 48 U.S.C. § 1469e as amended, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands may always buy off of the GSA schedules regardless of whether there is a declared PHE.

Temporarily reassign state and local personnel. The Secretary may authorize a requesting Governor of a state or tribal organization to temporarily reassign state and local public health department or agency personnel funded in whole or in part through programs authorized under the PHS Act to immediately address a public health emergency in the state or Indian tribe during the period of the emergency.

Limit liability of health care professionals who are members of the Medical Reserve Corps or professionals included in the Emergency System for Advance Registration of Volunteer Health Professionals responding to a PHE in the initial 90 days so that such professionals shall be subject only to the State liability laws in which the professional has been deployed to the PHE and only to the extent permitted under the laws of the State in which care is provided.

Determine a waiver of Paperwork Reduction Act (PRA) requirements is necessary. Section 319(f), recently added by the 21st Century Cures Act, allows the Secretary to determine that the circumstances of a PHE or a disease or disorder, including a novel and emerging public health threat that is significantly likely to become a PHE, necessitate a waiver from PRA requirements. If the Secretary makes such a determination, then PRA requirements for voluntary collection of information do not apply during the immediate investigation of and response to the PHE during the period of the PHE or the time period necessary to determine if a disease or disorder, including a novel and emerging public health threat, will become a PHE.

Waive certain requirements of the Drug Supply Chain Security Act (DSCSA). A public health emergency is considered an "emergency medical reason" under the DSCSA, 21 U.S.C. 360eee. Thus, upon the Secretary's declaration of a public health emergency, certain activities are automatically excluded through the time period of the declaration. Notably, product distribution for such emergency medical reasons is excluded from the DSCSA definitions of "transaction" and "wholesale distribution." Therefore, the DSCSA requirements related to product tracing and wholesale distribution do not apply to trading partner activities that address the public health emergency declaration.

Enable the Department of Labor (DOL) to issue dislocated worker program grants for disaster relief employment pursuant to 29 U.S.C. § 3225. A Federal agency emergency or disaster declaration or a Stafford Act declaration triggers an opportunity for eligible entities to apply for disaster relief employment National Dislocated Worker Grants. In order for a Federal agency declaration to trigger this authority, the chief official of a Federal agency with authority for or jurisdiction over the Federal

response must declare or otherwise recognize an emergency or disaster situation of national significance that could result in a potentially large loss of employment.

This page last reviewed: November 26, 2019

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THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

**WAIVER OR MODIFICATION OF REQUIREMENTS
UNDER SECTION 1135 OF THE SOCIAL SECURITY ACT**

January 8, 2020

1. Pursuant to Section 1135(b) of the Social Security Act (the Act) (42 U.S.C. § 1320b-5), I, Alex M. Azar II, Secretary of Health and Human Services, hereby waive or modify the following requirements of titles XVIII, XIX, and XXI of the Act and regulations thereunder, and the following requirements of Title XI of the Act, and regulations thereunder, insofar as they relate to Titles XVIII, XIX, and XXI of the Act, but in each case, only to the extent necessary, as determined by the Centers for Medicare & Medicaid Services, to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in the Medicare, Medicaid and CHIP programs and to ensure that health care providers that furnish such items and services in good faith, but are unable to comply with one or more of these requirements as a result of the consequences of earthquakes, may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse:
 - a. Certain conditions of participation, certification requirements, program participation or similar requirements for individual health care providers or types of health care providers, including as applicable, a hospital or other provider of services, a physician or other health care practitioner or professional, a health care facility, or a supplier of health care items or services, and pre-approval requirements.
 - b. Requirements that physicians or other health care professionals hold licenses in the State in which they provide services, if they have an equivalent license from another State (and are not affirmatively barred from practice in that State or any State a part of which is included in the emergency area).
 - c. Sanctions under section 1867 of the Act (the Emergency Medical Treatment and Labor Act, or EMTALA) for the direction or relocation of an individual to another location to receive medical screening pursuant to an appropriate state emergency preparedness plan or for the transfer of an individual who has not been stabilized if the transfer is necessitated by the

circumstances of the declared Federal public health emergency for earthquakes.

- d. Sanctions under section 1877(g) (relating to limitations on physician referral) under such conditions and in such circumstances as the Centers for Medicare & Medicaid Services determines appropriate.
 - e. Limitations on payments under section 1851(i) of the Act for health care items and services furnished to individuals enrolled in a Medicare Advantage plan by health care professionals or facilities not included in the plan's network.
2. Pursuant to Section 1135(b)(7) of the Act, I hereby waive sanctions and penalties arising from noncompliance with the following provisions of the HIPAA privacy regulations: (a) the requirements to obtain a patient's agreement to speak with family members or friends or to honor a patient's request to opt out of the facility directory (as set forth in 45 C.F.R. § 164.510); (b) the requirement to distribute a notice of privacy practices (as set forth in 45 C.F.R. § 164.520); and (c) the patient's right to request privacy restrictions or confidential communications (as set forth in 45 C.F.R. § 164.522); but in each case, only with respect to hospitals in the designated geographic area that have hospital disaster protocols in operation during the time the waiver is in effect.
3. Pursuant to Section 1135(b)(5), I also hereby modify deadlines and timetables and for the performance of required activities, but only to the extent necessary, as determined by the Centers for Medicare & Medicaid Services, to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in the Medicare, Medicaid and CHIP programs and to ensure that health care providers that furnish such items and services in good faith, but are unable to comply with one or more of these requirements as a result of earthquakes, may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse.

These waivers and modifications will become effective at 4:00 P.M. Eastern Standard Time on January 10, 2020, but will have retroactive effect to December 28, 2019, in the Commonwealth of Puerto Rico, and continue through the period described in Section 1135(e). Notwithstanding the foregoing, the waivers described in paragraphs 1(c) and 2 above are in effect for a period of time not to exceed 72 hours from implementation of a hospital disaster protocol but not beyond the period described in Section 1135(e), and such waivers are not effective with respect to any action taken thereunder that discriminates among individuals on the basis of their source of payment or their ability to pay.

The waivers and modifications described herein apply in the geographic area covered by the President's declaration on January 7, 2020, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, of an emergency as a result of

earthquakes in the Commonwealth of Puerto Rico; and my January 8, 2020, determination, pursuant to section 319 of the Public Health Service Act, that a public health emergency as a result of the consequences of earthquakes exists and has existed since December 28, 2019, in the Commonwealth of Puerto Rico.

1/8/20

Date

A handwritten signature in blue ink, appearing to read 'Alex M. Azar II', is written over a horizontal line.

Alex M. Azar II