



Janet T. Mills  
Governor

STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL  
AND FINANCIAL REGULATION  
BUREAU OF INSURANCE  
34 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0034

Eric A. Cioppa  
Superintendent

## Bulletin 442

### Emergency Measures Responding to the Coronavirus Pandemic

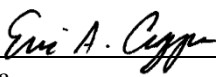
The World Health Organization recently declared that infection by the SARS-CoV-2 virus has spread to pandemic status. This is a new strain of coronavirus that had not been previously identified in humans and can easily spread from person to person, causing a potentially serious illness that has been designated as COVID-19.

By her proclamation issued today, attached to this Bulletin as Appendix A, Governor Janet T. Mills declared that the anticipated impact of COVID-19 in this State has created a state of insurance emergency as defined in 24-A M.R.S. § 471. Therefore, I have issued an order, attached as Appendix B, outlining emergency measures applicable to all carriers offering health plans subject to the Maine Health Plan Improvement Act, as defined at 24-A M.R.S. § 4301-A(7).

In addition, insurance licensees must keep in mind that the impact of the COVID-19 pandemic is not limited to health insurers. As with any emergency situation, there could be effects on various types of insurance in addition to health coverage. More fundamentally, enterprises of all kinds must be prepared to cope with absence or incapacity of employees, disruptions in transportation, and a range of other shortages and delays. This includes insurance companies, third-party administrators, adjusters, insurance agencies, and other licensees. As described in Bulletin 358, all insurance carriers must have effective business continuity plans in place, and be prepared to implement them.

As the COVID-19 situation continues to evolve, carriers should continually assess their readiness and be prepared to make any necessary adjustments to their operations. Carriers must prioritize consumers' needs, must make every effort to expedite claims approvals and payments and other essential customer service functions, and must make all reasonable accommodations for late payments and other problems that are beyond the consumer's control. Travel insurance has taken on particular importance at this time, and travel insurers are reminded that policies must provide full coverage for all covered risks arising out of COVID-19 exposure and infection, subject only to such lawful exclusions as are clearly stated in the policy and agreed to between the insurer and the insured.

March 12, 2020

  
Eric A. Cioppa  
Superintendent of Insurance

NOTE: This Bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers should consult applicable statutes and rules and contact the Bureau of Insurance if additional information is needed.



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State of Maine



### **Proclamation of Insurance Emergency**

**WHEREAS**, 24-A M.R.S. § 472 *et seq.* grants to the Superintendent of the Bureau of Insurance of the Maine Department of Professional & Financial Regulation (Superintendent) the authority to make, amend, or rescind certain rules and regulations governing the business of insurers when the Governor determines pursuant to 24-A M.R.S. § 471 that an insurance emergency exists; and

**WHEREAS**, the Maine Department of Health and Human Services and the Maine Center for Disease Control and Prevention continue to assess and advise regarding the anticipated impact of COVID-19 in Maine; and

**WHEREAS**, based upon that assessment and advice, I find that the welfare of the State and the welfare and security of insureds, beneficiaries and the public require a proclamation that an insurance emergency exists pursuant to 24-A M.R.S. § 471;

**NOW, THEREFORE**, I, Janet T. Mills, Governor of the State of Maine, pursuant to *Me. Const. Art. V, Pt. 1, §§ 1 and 12*, hereby proclaim an insurance emergency within the meaning of 24-A M.R.S. § 471. I authorize and direct the Superintendent during this period of insurance emergency to exercise the power conferred by 24-A M.R.S. §§ 471-79 to make, amend, or rescind such rules and regulations governing the business of health insurance carriers as the Superintendent deems expedient in order to adopt and maintain sound methods of protecting the interests of such insurers, insureds, beneficiaries and the public.

This Proclamation of insurance emergency shall pursuant to 24-A M.R.S. § 477 be effective until I proclaim that such insurance emergency has ceased to exist.

Dated this 12<sup>th</sup> day of March 2020.

Janet T. Mills  
Governor



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## **Insurance Emergency Response Order**

### **Coronavirus Public Health Emergency**

By proclamation issued today, Governor Janet T. Mills declared that the anticipated impact of COVID-19 in this State has created a state of insurance emergency as defined in 24-A M.R.S. § 471. She has authorized and directed the Superintendent of Insurance, for the duration of the emergency, to exercise the emergency powers conferred by Sections 471 through 479 of the Insurance Code as necessary to protect the interests of health insurers, insureds, beneficiaries, or the public. Therefore, pursuant to 24-A M.R.S. § 478 and Bureau of Insurance Rule 765, Section 5, I hereby order, effective immediately, the following emergency measures until further notice for all carriers offering health plans subject to the Maine Health Plan Improvement Act, as defined at 24-A M.R.S. § 4301-A(7):

**First-Dollar Coverage of COVID-19 Screening and Testing:** To ensure that cost does not create a barrier for consumers receiving medically necessary screening and testing for COVID-19, I direct all health insurance carriers to make these services available with no deductible, copayment, or other cost sharing of any kind, or any prior authorization requirement, including all associated costs such as processing fees and clinical evaluations. I appreciate the proactive measures taken by those carriers that are already doing so on their own initiative. Patients may be encouraged to visit their primary care practitioners or other network providers for screening visits, but the only situation in which carriers will be permitted to impose out-of-network charges is when the enrollee was offered the service in-network without additional delay but chose instead to visit an out-of-network provider or be tested by an out-of-network laboratory.

**Immunizations:** If and when an immunization becomes available for COVID-19, carriers shall immediately cover the cost of the vaccine and all associated costs of administration without cost sharing, on the same basis as screening and testing services.

**Emergency Care:** Carriers are reminded that Maine law requires coverage of emergency services, with network-level cost-sharing regardless of the status of the emergency provider, whenever a prudent layperson, possessing an average knowledge of medicine and health, would believe that immediate medical attention is necessary to avoid serious jeopardy to health, serious impairment of a bodily function; or serious dysfunction of any organ or body part. Prior authorization may not be required for emergency services.



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**Network Adequacy:** A pandemic has the potential of creating multiple strains on the health care system. At the same time that demand for services increases, the supply is reduced, both because providers are occupied with high patient loads and because practitioners themselves might be ill or under quarantine. Health carriers need to be prepared for the likelihood that their networks could be overloaded from time to time. If this happens, they are required by Bureau of Insurance Rule 850, § 7(B)(5), to ensure that the covered person's cost to obtain the covered benefit is no higher than if the benefit were obtained from participating providers, or to make other arrangements acceptable to the Superintendent. Likewise, when patients are treated at in-network facilities, they must be protected from surprise billing by out-of-network providers, as required by 24-A M.R.S. § 4303-C.

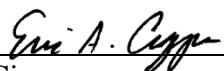
**Telehealth:** Telehealth services can mitigate the impact of the disruptions to health care delivery. Furthermore, because COVID-19 is a communicable disease, some enrollees might choose to use telehealth services instead of in-person health care services, or might be under restrictions that limit their ability to visit providers in person. Health carriers are reminded that 24-A M.R.S. § 4316 requires parity between coverage of telehealth and in-person services, and are directed to review their telehealth programs with participating providers to ensure that the programs are robust and will be able to meet any increased demand.

**Access to Prescription Drugs:** If supply chain disruptions result in shortages of medications that are on a carrier's formulary, the carrier must act promptly to make substitutes available when necessary, at no greater cost to the patient and without imposing prior authorization or step therapy requirements. Carriers shall also allow enrollees to obtain one-time refills of their prescription medications before the scheduled refill date, so that enrollees are assured of maintaining an adequate supply. Exceptions may be made for drug classes subject to misuse, such as opioids, benzodiazepines, and stimulants.

**Utilization Review:** When dealing with limited resources or unusual demand, carriers must prioritize the timely delivery of medically necessary health care services to enrollees. Both for services related to COVID-19 and also for any other care that their enrollees might need, carriers must conduct any applicable utilization review and appeal processes as expeditiously as possible, including but not limited to compliance with the requirements of the Health Plan Improvement Act and Rule 850.

**Communication:** Access to accurate information and avoiding misinformation are critical. Carriers shall give prompt notice to enrollees, providers, and the public of the measures they are taking to respond to the COVID-19 threat, including but not limited to measures taken to comply with the terms of this order. They shall ensure that the information is updated on an ongoing basis to remain current and correct. In particular, carriers must provide clear and prominent notice that they are waiving cost-sharing for medically necessary screening and testing for COVID-19, guidance on how enrollees can access such care, and notice that they are permitting early prescription refills. This notice must be posted prominently on the carrier's Web site, provided to all customer service personnel and all nurse help-lines and similar programs, and communicated to all network providers and facilities. Carriers shall provide the Bureau with copies of all notices.

March 12, 2020

  
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Eric A. Cioppa  
Superintendent of Insurance