BEFORE THE NEW MEXICO OFFICE OF SUPERINTENDENT OF INSURANCE

IN THE MATTER OF THE COVID-19 PUBLIC HEALTH EMERGENCY DATA CALL	)))	**Docket No. 20-00015-COMP-LH**

FILED
2020 MAR 12 PM 3:18
NM OFFICE OF SUPERINTENDENT OF INSURANCE

NOTICE OF INQUIRY AND ORDER

NOTICE IS HEREBY GIVEN that every health care insurer subject to the supervision of the New Mexico Superintendent of Insurance ("Superintendent") and subject to NMSA (1978), § 59A-57-2 (the Patient Protection Act or "PPA") shall furnish certain information and data to the Superintendent beginning no later than March 23, 2020, and on a continuous basis thereafter, as specified in this Notice and Order. The Superintendent, pursuant to Executive Order 2020-004 issued by Governor Michelle Lujan Grisham on March 11, 2020, and on his own motion, **HEREBY FINDS:**

1. The New Mexico Insurance Code, at NMSA (1978), § 59A-4-3, provides:

> The superintendent may direct an inquiry to any person subject to supervision under the Insurance Code with respect to any transaction or matter within the scope of such supervision. Upon receipt of the request, the person shall promptly furnish to the superintendent requested information in possession or control of such person. If so specified by the superintendent, the requested information shall be furnished under oath.

2. The New Mexico Insurance Code, at NMSA (1978), § 59A-57-2 (the "PPA"), provides:

> The purpose of the Patient Protection Act is to regulate aspects of health insurance by specifying patient and provider rights and confirming and clarifying the authority of the department to adopt regulations to provide protections to persons enrolled in managed health care plans. The insurance protections should ensure that managed health care plans treat patients fairly and arrange for the delivery of good quality services.

3. Bulletin 2020-004, issued by the Superintendent on March 6, 2020, identifies the practices every New Mexico licensed health insurer should implement to respond to the public health emergency presented by the COVID-19 virus.

4. In response to Executive Order 2020-004, the Superintendent has determined that it is in the public interest to determine whether and how insurers have implemented those practices, and to ascertain whether further regulatory or enforcement action is necessary to protect New Mexicans from the potential spread of COVID-19.

IT IS THEREFORE ORDERED that every health care insurer subject to the supervision of the Superintendent and subject to the PPA shall furnish the following information and data:

A. Confirmation that the insurer is acting in accordance with the March 5, 2020 statement of the Board of Directors of America's Health Insurance Plans ("AHIP") on COVID-19 (the "AHIP Statement"). Specifically, the insurer must verify whether it will waive all cost sharing relating to COVID-19 testing and treatment.

B. Verification that the insurer's utilization review, prior authorization, care management, case management and emergency care policies and procedures meet OSI, NM DOH, and CDC guidelines relating to the operational challenges presented by COVID-19;

C. A copy of any notice sent to the insurer's members that provides information on COVID-19 prevention, treatment, cost-sharing, or prescription drug refill policies. For each such notice, a verification of when and how it was sent, and the total number of members on the notice distribution list;

D. A copy of any notice sent to providers in the insurer's network concerning COVID-19 public health recommendations, protocols, or telemedicine services. For each such notice, a verification of when and how it was sent, and the total number of providers on the notice distribution list;

E. A copy of any referral, consultation or cost-sharing guidelines provided to the insurer's help-desk or help-line providers concerning COVID-19;

F. Verification of the date that the insurer's billing system will be able to process COVID-19 billing codes;

G. A report of the number of claims processed related to COVID-19; and

H. Copies of COVID-19 specific staff training materials.

I. All information and data responsive to this Notice and Order shall be furnished under oath, through a notarized affidavit by a duly authorized officer of each health care insurer.

J. All information and data required by this Notice and Order shall be furnished electronically to the Superintendent, as provided in paragraph L, below, no later than the close of business on March 23, 2020.

K. This is a continuing request. Weekly, by the close of business each ensuing Friday, each health insurer shall supplement its response to this data call with any responsive data or information generated since its last immediately preceding submission.

L. All submissions shall be made electronically to: melissa.gutierrez@state.nm.us.

M. Failure to comply with this order may result in a fine or other penalty including suspension or revocation of the insurer's Certificate of Authority pursuant to Section 59A-5-26(A)(1) NMSA 1978. OSI staff will prepare a report of compliant and non-compliant insurers and the report shall be posted on the OSI website.

N. This Notice and Order is effective immediately.

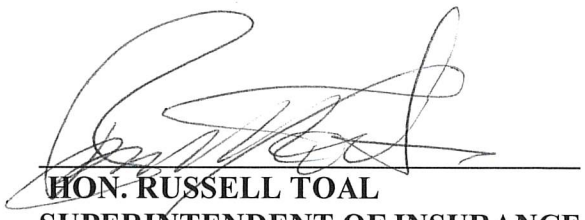
O. Copies of this Notice and Order shall be served electronically upon all persons listed on the attached Certificate of Service.

P. Staff Counsel shall upload the order on the OSI Newsletter and ensure the order is sent out as a large volume correspondence to all Health Insurers licensed in New Mexico on the State Based System.

Q. This Notice and Order shall remain in effect until further written order of the Superintendent.

R. This docket shall remain open until further written order of the Superintendent.

DONE AND ORDERED this 12th day of March, 2020.



HON. RUSSELL TOAL
SUPERINTENDENT OF INSURANCE

CERTIFICATE OF SERVICE

I HEREBY certify that a true and correct copy of the foregoing *Notice and Order* was emailed to the following individuals, as indicated below, this 12th day of March, 2020.

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