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CALIFORNIA INSURANCE COMMISSIONER

STATE OF EMERGENCY NOTIFICATION FILING REQUIREMENTS

**August 18, 2019 State of Emergency Declaration,
Statewide (Wildfires)
(Ins. Code § 10112.95 (AB 2941, Stats. 2018, Ch. 196))**

TO: All California Health Insurers

DATE: August 21, 2020

On Tuesday, August 18, 2020, Governor Gavin Newsom declared a statewide [State of Emergency](#) due to hundreds of wildfires across California. This emergency occurs in the concurrent context of the Governor's August 16, 2020 declaration of a [State of Emergency](#) due to the ongoing extreme heat event, as well as the ongoing March 4, 2020, COVID-19 [State of Emergency](#).

The declared emergency has the "immediate potential to displace insureds" within the meaning of Insurance Code section 10112.95(b), particularly, but not limited to, their ability to access needed medical care, including but not limited to COVID-19 testing, as well as access to prescription medications where network pharmacy services are no longer available. Further, the Department is aware of reports of disruption and delay of mail delivery by the U.S. Postal Service of prescription drugs. Such delays have reportedly led to individuals going without their medications. In addition, for medications that must be kept cool, the delayed delivery in conjunction with the extreme heat has reportedly led to the delivery of unusable medications. Accordingly, all health insurers operating in California must submit a notification describing whether the insurer has experienced or expects to experience any disruption to the operation of the insurer, explaining how the insurer is communicating with potentially impacted insureds, and summarizing the actions the insurer has taken (or is in the process of taking) to ensure that the health care needs of insureds are met. This notification shall include information demonstrating that insureds have access to medically necessary health care in affected areas, including but not limited to the following:

- 1) How the insurer will comply with the actions specified in section 10112.95(b)(1)-(6). In particular, the insurer should describe its policies concerning suspending prescription fill or refill limitations, waiving charges for home delivery, and other means of removing barriers to access

to outpatient prescription drugs. These measures should include, but are not limited to, the following measures, consistent with section 10112.95(b)(3):

- a. Relaxing limitations on waiting periods between refills so that insureds can maintain at least a 30-day supply of medication on hand, while managing, in collaboration with pharmacists and providers, patient safety risk associated with early refills for certain drug classes, such as opioids, benzodiazepines, and stimulants.
 - b. Permitting conversion of 30-day prescriptions with multiple refills into one larger prescription, so that, for example, a prescription written as a 30-day supply with 3 refills may be filled as a single 90-day supply.
 - c. Relaxing insurer-imposed fill or refill supply limits where the provider has indicated that a larger fill or refill amount is appropriate for the patient.
 - d. Waiving delivery charges for home delivery of prescription medications.
 - e. Assuring access by streamlining or eliminating processes for requesting prior authorization, step therapy exceptions, and exceptions for obtaining off-formulary drugs when a drug is unavailable due to supply chain disruptions or similar issues.
 - f. Access to retail pharmacies, including non-network pharmacies, to fill prescriptions ordinarily filled by mail order when timely delivery by mail cannot be assured, or when mailing poses a risk of deterioration due to the combination of transportation delay and the extreme heat event.
 - g. Monitoring of timeliness of pharmaceutical delivery to assure the adequacy of the network in delivering medications timely.
 - h. Utilize carriers other than the U.S. Postal Service if necessary to assure timely delivery.
- 2) How the insurer is complying with section 10112.95(a), which requires insurers to provide displaced insureds with “access to medically necessary health services.”
 - 3) The insurer’s plan for replacement of medical equipment or supplies.
 - 4) The insurer’s plan to comply with section 2240.1(e) of title 10 of the California Code of Regulations, which requires that networks must provide access to medically appropriate care from a qualified provider and, if care cannot be provided within the network, the insurer must arrange for available and accessible providers outside the network, with the patient responsible only for an amount equal to in-network cost-sharing.
 - a. This plan should include a discussion of the policies and procedures in place for the contingency of network providers, particularly

hospitals, being unable to provide care due to excessive demand related to this emergency, consistent with guidelines from governmental public health agencies. The plan should detail the policies and procedures in place for effecting transfer to the nearest facility, in or out of network, which has capacity to provide medically appropriate care.

- 5) The insurer's plans for communicating with insureds regarding care options available during the emergency, including provision of a toll-free telephone number.

Because of the nature of these emergencies, the required notification must be filed by close of business Wednesday, August 26. The filing should be made through the Department of Insurance "California Life & Health" instance on SERFF. Designate "form" under the "filing type" field. In the "Filing Description" field, enter "Disaster Notification Fires August 18" Submit the disaster notification under the "Supporting Documentation" tab.

For questions regarding this Notice, please contact Bruce Hinze at Bruce.Hinze@insurance.ca.gov or Ethan Lavelle at Ethan.Lavelle@insurance.ca.gov.