BULLETIN 24-03

To: All Insurance Companies and Producers Writing in the State of Iowa
From: Doug Ommen, Iowa Insurance Commissioner
RE: Expectations for Relief While a State Disaster Proclamation is in Place
Date: July 3, 2024

The purpose of Bulletin 24-03 is to provide ongoing guidance to individuals and entities regulated by the Iowa Insurance Commissioner when severe weather and natural disasters impact Iowa consumers.

In light of the ongoing guidance provided by this bulletin, the Commissioner rescinds the following Bulletins immediately.

- Bulletin 19-04: Insurance Consumers impacted by severe weather and natural disasters (dated 6/17/19)
- Bulletin 21-04: Derecho Damage Deadlines (dated 7/26/21)

The Commissioner requests that producers and insurers writing insurance in Iowa extend the requested relief described below to impacted consumers during times when state disaster proclamation is in place as a result of severe weather or a natural disaster. Information regarding state disaster proclamations is available at DisasterRecovery.iowa.gov.

Severe weather, including heavy rains, hail, straight-line winds, tornadoes, widespread flooding, flash flooding, etc. can greatly impact consumers. This bulletin lists relief the Commissioner requests insurers and producers provide to impacted consumers who experience a loss. Consumers may be impacted due to their inability to receive mail, have access to lost or damaged prescription drugs, or access their in-network provider. During these times, producers play a key role in ensuring consumers are receiving communications from insurers.

Consumers must be protected from policy lapses during these critical times and the insurance industry needs consistent and predictable standards. The Commissioner appreciates the assistance and cooperation of producers and insurers at times when Iowans work to recover from severe weather and natural disasters.

Cancellation Grace Period Due to Nonpayment or Late Payment

The Commissioner requests all insurers licensed in this state allow coverage to remain in effect for any Iowa insured who resides in a county where a state disaster proclamation is in place and who has had their ability to timely act or respond to an insurer materially affected. Insurers may alternatively choose to implement this request in a broader manner such as delineating impacted areas by zip code, county or other geographic territory to assist impacted insureds in areas where

a state disaster proclamation is in place.

Insurers should also consider providing a grace period during which their insureds can take actions necessary to keep their policies in force. The Iowa Insurance Division is not requesting insurers waive any premiums, deductibles, cost-sharing or other consideration owed on any policy or contract during this period of time. The Iowa Insurance Division anticipates that a failure to pay premiums, deductibles, cost-sharing or remit consideration within a reasonable time after the expiration of such disaster designation may subject the policy to a retroactive cancellation, in accordance with the policy terms.

For those policies with an automatic bank draft or electronic funds transfer arrangement, insurers may continue payment deductions unless or until the policyholder terminates this arrangement with the insurer and the financial institution.

Nothing in this bulletin should be construed as the Commissioner requesting an insurer to continue coverage for an insured who is otherwise unaffected by any mail disruptions. Additionally, nothing in this bulletin should be construed as the Commissioner requesting any insurer to refrain from terminating coverage on the basis of fraud on the part of an insured.

Waiving Frequency Limits for Prescription Drugs, Durable Medical Equipment, and Medical Supplies

Some consumers may not be able to access their covered prescription medications, durable medical equipment or other necessary medical supplies as a result of a declared disaster. To make allowances for consumers to have an alternative method of obtaining covered products that might otherwise not be obtainable until a future date, insurers should work with consumers to provide coverage for replacement medications, medical equipment, and supplies. When coverage exists for insureds of disaster areas, insurers shall waive frequency limits to allow insureds to obtain refills or replacements of their medically necessary products.

Out-of-Network Benefits Treated as In-Network

When severe weather or a natural disaster affects an area designated as a disaster, the Commissioner requests all health insurers providing health insurance with a network component, offer additional relief. If such insurers have insureds affected by severe weather or a natural disaster (which could be either a circumstance where the insured's primary residence was impacted or where the insured's ability to access their provider was impacted), who receives out-of-network care, the health insurer should consider providing coverage to the insured at no greater cost to the insured than if the insured had received care from an in-network provider.

Reporting Requirements for Claims

Consumers in an area where a state disaster declaration is in place who have been temporarily or permanently displaced during a natural disaster may have lost access to records and documents

that would assist them in filing claims, including claims for destroyed or damaged property. Insurers should consider extending reporting timeframes or permitting requests for additional time to file claims.

Claim resolution

Many insurance contracts include provisions requiring replacement or repairs to be completed within a specified time period in order to receive the replacement cost settlement proceeds, also known as "recoverable depreciation." The intent of this provision is understood in ordinary circumstances. Many policyholders, through no fault of their own, but due to the scale of the damage from weather events, may require additional time to work through the claim resolution process. Given the varied circumstances leading to delays that may occur around the recovery efforts, invoking contractual provisions prohibiting payment of recoverable depreciation after a certain deadline may be viewed as a failure to act in good faith to effectuate fair and equitable settlement of a claim pursuant to Iowa Code sections 507B.3 and 507B.4.

In an area where a state disaster proclamation is in place, consumers with open claims hold up their end of the insurance contract by diligently working towards the completion of repairs. Diligent work toward completion is proper justification for granting an extension request. The Iowa Insurance Division believes this practice is important to implement broadly in areas where a state disaster proclamation is in place given the unique circumstances of claims related to severe weather or natural disaster when policyholders have demonstrated a good faith effort to conclude the claim.

Delays in the claim handling may limit a policyholder's ability to later file an action against the carrier for disputed claims. Carriers must use great care in applying these provisions as policyholders request extensions in claims handling. Insurance carriers have a duty to pay what is owed under the contract in a timely manner and cannot compel insureds to institute litigation by offering substantially less than what is ultimately recoverable under a claim.

Severe weather and natural disasters present unprecedented challenges for carriers and policyholders alike. The existence of or the interpretation of insurance contract provisions cannot be employed to frustrate a carrier's duties of fair dealing. Carriers must evaluate issues related to supply chain interruption and contractor availability and apply reasonable claim handling responses when these factors complicate the claim resolution.

Hardworking Iowans pay premiums diligently and carriers shall work to expedite the payment of claims after a disaster. The Iowa Insurance Division expects carriers, who have a duty to be fair in the claims process, to make certain they continue to support their Iowa policyholders throughout the rebuilding process in its entirety.

Letter of Declination for FEMA

Producers should assist their insureds that do not have flood insurance and that are in a flood damaged area by writing a letter of declination on letterhead that states the insured does not have flood insurance and attaching a copy of the insurance policy declarations page and the insurance policy to the letter. This should be adequate to allow the Federal Emergency Management Agency (FEMA) to determine there is no coverage and allow the FEMA process to move along more quickly. While FEMA needs to know there is not insurance coverage available, it is generally not in the best interest of the consumer to file a baseless claim.

Timing of relief

The intent of this bulletin is not to have a specific expiration date but to provide guidance so whenever a state disaster proclamation is issued by the Governor, producers and insurers have guidance on actions they should consider taking.

The Iowa Insurance Division will continue to review disaster declarations on a case-by-case basis and will provide additional guidance as necessary. For questions or clarifications regarding this Bulletin, please contact Jordan Esbrook at Jordan.Esbrook@iid.iowa.gov.