



LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

August 23, 2021

The Honorable Patrick Page Cortez
President, Louisiana State Senate
P.O. Box 94183
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION
apa.senatepresident@legis.la.gov

The Honorable Clay Schexnayder
Speaker, Louisiana House of Representatives
P.O. Box 94062
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION
apa.housespeaker@legis.la.gov

The Honorable Kirk Talbot
Chairman, Senate Insurance Committee
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The Honorable Edmond Jordan
Acting Chairman, House Insurance Committee
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RE: Summary Report – Regulation 118—Requirements in the Event of a Declared Emergency

Dear President Cortez, Speaker Schexnayder, Senator Talbot, and Representative Jordan:

The Louisiana Department of Insurance (LDI) hereby submits the following summary report required by La. R.S. 49:968(D)(1)(b), and announces its intention to proceed to finalize the promulgation of Regulation 118 which was published as a Notice of Intent in the July, 2021 edition of the *Louisiana Register*.

Interested persons were provided an opportunity to submit comments to the LDI on the proposed regulation. The LDI received one comment from the American Council of Life Insurers (ACLI) regarding the proposed amendment in response to the Notice of

Intent and responded accordingly. ACLI's comment and the LDI's response are summarized below and enclosed for your review.

Email dated August 19, 2021 from ACLI:

Comment No. 1: ACLI inquired as to the applicability of the sections specified in Section 17915.D of proposed Regulation 118. Specifically, they inquired as to whether those sections applied only to any kind of health and accident insurance issued by a health and accident insurer, HMO, MCO, or PPO.

Response to Comment No. 1: After review, the LDI responded as follows: "To the extent the Sections referenced in §17915.D relate to products, they only apply to kinds of insurance provided for in §17915.B; to the Sections referenced in §17915.D relate to insurers, they only apply to health insurance issuers specified in 17913.C. As a practical matter, however, the Department would note that the substance of those sections is generally applicable only to health insurance products offered by health insurance issuers." The comment did not require any change to proposed Regulation 118.

Subject to legislative oversight, the LDI would like to finalize the promulgation of Regulation 118 and submit the regulation to the Office of the State Register for publication in the October, 2021 edition of the Louisiana Register. A copy of the summary report will be placed on the LDI's website in accordance with La. R.S. 49:968(D)(1)(c).

If you have any questions or need any additional information, please contact me at (225) 219-7851, or electronically at Lisa.Henson@ldi.la.gov.

Sincerely,



Lisa L. Henson
Staff Attorney
Louisiana Department of Insurance

Enclosure: Notice of Intent to Promulgate Regulation 118—Requirements in the Event of a Declared Emergency

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Lisa Henson, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., August 19, 2021.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 87—Louisiana Citizens Property Insurance Corporation Producer Binding Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The rule revisions amend Regulation 87 to conform to changes to the

plan of operations of the Louisiana Citizens Property Insurance Corporation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups. The rule revisions amend Regulation 87 to conform to changes to the plan of operations of the Louisiana Citizens Property Insurance Corporation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

S. Denise Gardner
Chief of Staff
2107#023

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 118—Requirements in the Event of a
Declared Emergency (LAC 37:XIII.Chapter 179)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:1 et seq., and specifically R.S. 22:11, the Department of Insurance hereby gives notice of its intent to promulgate Regulation 118—Requirements in the Event of a Declared Emergency. The Department of Insurance is promulgating Regulation 118 to comply with Acts 2021, No. 223, §1 of the Regular Session of the Louisiana Legislature that enacted R.S. 22:11(C), which requires the commissioner to promulgate rules and regulations to govern the business of insurance in the event of a declaration of emergency.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 179. Regulation 118—Requirements in the Event of a Declared Emergency

§17901. Purpose

A. The purpose of Regulation 118 is:

1. to establish requirements and set forth the procedure for the commissioner to implement rules and regulations on the business of insurance in the event of a declared emergency or public health emergency pursuant to the authority granted in La. R.S. 22:11(C);

2. to provide for a process for supplementing existing rules and regulations with emergency rules and regulations particular to the unique needs of a declared emergency or public health emergency;

3. to set forth the model requirements to be implemented in the event of a declared emergency or public health emergency having such effect as necessitates intervention by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17903. Applicability and Scope

A. Regulation 118 shall apply to any and all insurers, health maintenance organizations, producers, all other entities regulated by the Louisiana Department of Insurance, health care providers, and individuals and to any and all kinds of insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17905. Definitions

A. As used in this Regulation 118, the following terms shall have the meanings specified.

Commissioner—the Commissioner of the Louisiana Department of Insurance.

Declaration of Emergency—an executive order or proclamation by the governor declaring a disaster or state of emergency pursuant to R.S. 29:724 or a public health emergency pursuant to R.S. 29:766.

Declared Emergency—a disaster or state of emergency declared by the governor pursuant to R.S. 29:724 or a public health emergency declared by the governor pursuant to R.S. 29:766.

Department—the Louisiana Department of Insurance.

Insurer—every person or entity engaged in the business of making contracts of insurance, other than a fraternal benefit society, as defined in R.S. 22:46(10), and any other person or entity doing business in Louisiana and/or regulated by the commissioner.

Standing Rule—model language to be used for emergency rules to be promulgated by the department pursuant to Title 22 and the Administrative Procedure Act, comprising the rules and regulations specified in §17913 through 17961 of this Regulation 118.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17907. Emergency Powers, Generally

A. In the event of a declared emergency, the commissioner may issue an Emergency Rule to govern the business of insurance. Such Emergency Rule shall include, but not be limited to, the following:

1. provide for the implementation of the standing rule, including specification of any sections which are not to be implemented during the declared emergency;

2. provide for any requirements to be imposed in addition to the standing rule during the declared emergency;

3. specify the geographic area to which the Emergency Rule applies;

4. specify the duration for which the Emergency Rule applies, including an effective date which shall not precede the date of declaration of emergency.

B. The commissioner may promulgate additional Emergency Rules pursuant to the authority granted to the commissioner by Title 22 and the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17909. Effect of Emergency Rule Implementing Standing Rule

A. The effect of the commissioner's issuance of an Emergency Rule providing for the implementation of the standing rule shall be to incorporate by reference each element of the standing rule except for those sections expressly specified to not be implemented during the declared emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17911. Application of Subsequent Sections

A. Sections 17913 through 17961 of this Chapter comprise the standing rule and shall have no effect except as specified in any Emergency Rule promulgated pursuant to §17907.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17913. Benefits, Entitlements, Protections and Applicable Parishes

A. The benefits, entitlements and protections of the Emergency Rule shall be applicable to insureds, policyholders, members, subscribers, enrollees and certificate holders (hereinafter "insureds") who, as of 12:01 a.m. on the effective date of the Emergency Rule, have an insurance policy, insurance contract, or certificate of coverage for any of the kinds of insurance enumerated in §17915, as delineated below, and who meet one of the following criteria.

1. Any person who, as of the effective date of the Emergency Rule, resided in the geographic area specified in the Emergency Rule. Said person is entitled to the protections of the Emergency Rule for the kinds of insurance enumerated in §17915.A and B.

2. For the kinds of insurance enumerated in §17915.B, any person whose primary place of employment was in, or whose permanent employer had assigned said person to a business located in the geographic area specified in §17913.A.1, shall be eligible for the benefits, entitlements and protections of the Emergency Rule if said person verifies such employment status by written documentation to his health insurance issuer. No health insurance issuer shall unreasonably withhold eligibility to insureds upon receipt of such written documentation.

3. For the kinds of insurance enumerated in §17915.A, any insured who does not reside in the geographic area specified in §17913.A.1, but has filed with an authorized insurer or surplus lines insurer a notice of loss on a property claim for damage caused by the disaster or emergency and its aftermath to property located in the geographic area specified in §17913.A, shall be entitled to contact the insurer and request the benefits, entitlements, and protections of the Emergency Rule. These insurers are directed to work with their insureds who have filed a notice of loss on a property claim for damage caused by the disaster or emergency and its aftermath and provide accommodation as applicable, relevant and appropriate.

B. The Emergency Rule shall apply to any authorized insurer as defined in R.S. 22:46(3) operating in Louisiana,

and to any approved unauthorized insurer, eligible unauthorized insurer, or domestic surplus lines insurer as defined in R.S. 22:46(17.1) operating in Louisiana (sometimes hereinafter referred to as a surplus lines insurer).

C. The Emergency Rule shall apply to every health and accident insurer, health maintenance organization (HMO), managed care organization (MCO), preferred provider organization (PPO), pharmacy benefit manager (PBM), and third party administrator (TPA) acting on behalf of a health insurance issuer, HMO, MCO, PPO, and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana (collectively known as “health insurance issuers”).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17915. Applicability and Scope

A. The Emergency Rule shall apply to any and all kinds of insurance set forth in R.S. 22:47, including, but not limited to, life, vehicle, liability, workers’ compensation, burglary and forgery, fidelity, title, fire and allied lines, steam boiler and sprinkler leakage, crop, marine and transportation, miscellaneous, homeowners’, credit life, credit health and accident, credit property and casualty, annuity, surety, and industrial fire. The applicability of the Emergency Rule to health and accident insurance is specified in §17915.B.

B. The Emergency Rule shall apply to any and all kinds of health and accident insurance, including, but not limited to, group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, PPOs, MCOs except those subject only to licensure and financial solvency regulation pursuant to R.S. 22:1016, excess loss insurance, stop loss insurance, disability income insurance, short-term health insurance, long-term care insurance, and any and all other health insurance.

C. Sections 17917 and 17929.B & C of the Emergency Rule shall apply to only those kinds of insurance provided for in §17915.A and those types of insurers specified in §17913.B.

D. Sections 17925, 17931, 17933, 17937, 17939.A, 17943, 17945, and 17947 of the Emergency Rule shall apply only to those kinds of insurance provided for in §17915.B and those health insurance issuers specified in §17913.C.

E. All provisions of the Emergency Rule not expressly limited in §17915.C and D shall apply to all types of insurers and all kinds of insurance as defined in §17913 and §17915.

F. Nothing in §17915 shall be interpreted to apply the provisions of the Emergency Rule to policies of insurance issued for the benefit of insureds not subject to the benefits, entitlements, and protections enumerated in §17913.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11(C).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17917. Cancellation, Nonrenewal, and Nonreinstatement

A. The Emergency Rule hereby suspends any notice of cancellation, notice of nonrenewal, nonreinstatement or any other notice related to any of the types of insurance enumerated in §17915 that was in force and effect at 12:01

a.m. on the effective date of the Emergency Rule, and any such notice shall be null and void and have no force or effect. Furthermore, any such notice shall be reissued de novo to the insured in accordance with existing statutory requirements after the expiration of the Emergency Rule.

B. Insurers may issue a notice of cancellation for nonpayment of premium during the pendency of the Emergency Rule. When any such notice is issued during the pendency of the Emergency Rule, the applicable notice period required by statute or the policy may begin to run, but in no event may the insurer cancel the insurance policy for nonpayment of premium until after the expiration of the Emergency Rule.

C. No policy shall be cancelled or nonrenewed solely because of a claim that is filed during, or is caused by, the disaster or emergency or its aftermath.

D. Unless otherwise expressly authorized in writing by the commissioner, the cancellation, nonrenewal or nonreinstatement of any insurance policy related to any of the types of insurance enumerated in §17915 is hereby suspended and shall not be allowed until after the expiration of the Emergency Rule as provided for in §17961.

E. All cancellation, nonrenewal, or nonreinstatement provisions, including, but not limited to, R.S. 22:272, 22:887, 22:977, 22:978, 22:1068, 22:1074, 22:1266, 22:1267, and 22:1335 are hereby suspended, except to the extent such provisions apply to acts or practices constituting fraud or intentional misrepresentations of material fact.

F. As set forth in §17949, the Emergency Rule shall not prevent an insurer from cancelling or terminating an insurance policy for fraud or material misrepresentation on the part of the insured.

G. Any temporary postponement of cancellation or nonrenewal pursuant to the Emergency Rule shall not remain in effect beyond 60 days unless presented by the commissioner to the Senate Insurance Committee and House Insurance Committee for review and approval by either committee prior to any extension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17919. Renewal

A. The renewal conditions of all kinds of insurance enumerated in §17915 that are subject to renewal after the effective date of the Emergency Rule are suspended and shall be deferred until the expiration of the Emergency Rule as provided for in §17961. All policies subject to renewal after the effective date of the Emergency Rule shall continue in full force and effect at the previously established premium until the expiration of the Emergency Rule as provided for in §17961. The previously established premium for renewals by authorized insurers shall be based on the rate structure, rating plan and manual rules that are approved by the commissioner, regardless of whether their effective date was before or during the Emergency Rule. The previously established premium by authorized insurers for renewals of commercial deregulated insurance policies shall be based on the rate structure, rating plan and manual rules set forth in any filing submitted to the commissioner before or during the Emergency Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17921. Written Request for Cancellation by Insured

A. Except as provided for in §17949 herein, a cancellation shall not occur prior to the expiration of the Emergency Rule unless upon the documented written request or written consent of the insured. This written consent may be in electronic format.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17923. New Policies

A. The Emergency Rule shall not apply to any new insurance policy for any of the kinds of insurance enumerated in §17915 if said insurance policy is issued on or after the effective date of the Emergency Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17925. Claims Notification

A. All claims notification procedures, including, but not limited to, R.S. 22:975(A)(3)-(5), Regulation 33, and Regulation 74, are suspended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17927. Premium Offset

A. All insurers subject to the Emergency Rule receiving a claim from an insured owing a premium may offset the premium owed by the insured against any claim payment made to the insured under the insurance policy. §17927 shall not apply to health insurance issuers as defined in §17913.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17929. Obligation of Insured to Pay Premium

A. Unless otherwise cancelled in accordance with the provisions of §17921 herein, nothing in the Emergency Rule shall be construed to exempt or excuse an insured from the obligation to pay the premiums otherwise due for actual insurance coverage provided.

B. Those insureds entitled to the benefits, entitlements and protections of the Emergency Rule are advised that this suspension is not a waiver, but only an extension or grace period to facilitate payment of the premium.

C. Insurers are directed to work with and assist their affected insureds who reside in the impacted parishes with the payment of the premium that would have become due during this moratorium period by either establishing for the insured a payment plan for the unpaid premium or providing to the insured a further extension for the payment of the unpaid premium.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17931. Timely Payment of Health Claims

A. Only to the extent necessary to permit the pending of claims during a premium payment delinquency by the insured, the provisions of R.S. 22:1832-1834 and Regulation

74 related to timely payment of claims are hereby suspended.

B. For any policy of insurance described in §17915.B which, as a result of nonpayment of premium, would be subject to cancellation or termination but for the suspension ordered in §17917, the health insurance issuer may pend all claims for services rendered to the insured for the remainder of the suspension provided for in §17917 until the health insurance issuer receives the delinquent premium payment or until such time the health insurance issuer is subsequently entitled to cancel or terminate the policy for nonpayment of premium.

C. The health insurance issuer shall notify providers of the possibility for denied claims when an insured is in the grace period.

D. Once a health insurance issuer receives the delinquent premium payment during the grace period, all pending claims associated with the time period to which such payment applies shall be processed and adjudicated. The health insurance issuer shall notify the health care provider that the claim is no longer pending and is being processed and adjudicated for payment. Furthermore, the suspension provided for in §17931.A shall be automatically lifted and all applicable timely payment requirements reinstated upon the date of the payment of premium.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17933. Nonpayment of Health Claims

A. In the event a health insurance issuer pends a claim, as permitted pursuant to §17931, and is subsequently entitled to cancel or terminate a policy for nonpayment of premium, the health insurance issuer shall pay any remaining claims for which payment is required under §17931.B. The health insurance issuer may deny payment on pended claims for services rendered to the insured during the period of nonpayment after the first month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17935. Insured's Obligation to Cooperate in Claim Process

A. The Emergency Rule shall not relieve an insured who has filed a claim before or during the pendency of the Emergency Rule from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to the claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17937. Physician Credentialing

A. The commissioner hereby suspends physician credentialing pursuant to R.S. 22:1009 such that there are no credentialing requirements with regard to any and all licensed physicians who provide medical services to insureds identified in §17913.A or §17913.B between 12:01 a.m. on the effective date of the Emergency Rule and the expiration of the Emergency Rule as provided for in §17961.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17939. New Rate or Premium

A. For all health insurance issuers specified in §17913.C, any rate increases that were to take effect after the effective date of the Emergency Rule are suspended and shall be deferred until the expiration of the Emergency Rule as provided for in §17961.

B. For all other insurers, as specified in §17913.B, the Emergency Rule shall not affect the right of any insurer to file for and/or implement a new rate or premium for any insurance policy for the types of insurance enumerated in §17915.A if the new rate or premium has been approved by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17941. Imposition of Interest, Penalty, or Other Charge

A. The commissioner hereby suspends the imposition of any interest, penalty, or other charge and declares that no interest, penalty, or other charge shall accrue or be assessed against any insured as the result of the suspensions ordered in the Emergency Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17943. Continuation of Health Coverage

A. The commissioner hereby suspends R.S. 22:1046. In furtherance thereof, a health insurance issuer who has issued a group health insurance policy shall provide to all members or certificate holders under said group policy the option for the continuation of coverage, which said option shall begin on the day after the end the expiration of the Emergency Rule as provided for in §17961. This section is only applicable in those situations where the employer to whom the group policy had been issued remains in business and continues to offer said group health insurance to active employees for the duration of the Emergency Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17945. Prescription Drug Coverage

A. Health insurance issuers shall allow insured individuals to obtain refills of their prescriptions even if the prescription was recently filled, consistent with approval from patients' health care providers and/or pharmacists. This provision does not apply to prescription drugs with a high likelihood of abuse, such as opioids that are restricted to 7-day prescriptions.

B. The commissioner hereby suspends any provisions in the Louisiana Insurance Code which place restrictions on replacement prescriptions pertaining to mail order prescriptions. Mail order prescriptions shall be mailed to an alternate address if requested by the insured.

C. All health insurance issuers shall waive any and all restrictions relative to out-of-network access to pharmacy services or prescriptions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17947. Telemedicine Access

A. Health insurance issuers shall waive any coverage limitations restricting telemedicine access to providers included within a plan's telemedicine network.

B. Health insurance issuers shall waive any requirement that the patient and provider have a prior relationship in order to have services delivered through telemedicine.

C. Health insurance issuers shall cover mental health services provided by telemedicine consultation to the same extent the services would be covered if provided through an in-person consultation. This shall not be interpreted to require coverage of telemedicine services that cannot be appropriately provided remotely.

D. Health insurance issuers shall waive any requirement limiting coverage to provider-to-provider consultations only and shall cover telemedicine consultations between a patient and a provider to the extent the same services would be covered if provided in person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17949. Fraud or Material Misrepresentation

A. The Emergency Rule shall not prevent an insurer from cancelling or terminating an insurance policy for fraud or material misrepresentation on the part of the insured.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17951. Exemption from Compliance

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with the Emergency Rule upon a written request by the insurer setting forth in detail each and every reason for the exemption and then only if the commissioner determines that compliance with the Emergency Rule may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17953. Sanctions for Violations

A. The commissioner retains the authority to enforce violations of the Emergency Rule. Accordingly, any insurer enumerated in the Emergency Rule or any other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of the Emergency Rule shall be subject to regulatory action by the commissioner under any applicable provisions of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17955. Sixty Day Period to Initiate Adjustment of Property Claims

A. In accordance with R.S. 22:1892(A)(3), the disaster or emergency and its aftermath qualifies as a catastrophic loss event that requires insurers to initiate loss adjustment of a property damage claim within thirty (30) days after notification of loss by the insured.

B. In furtherance of R.S. 22:1892(A)(3), the severity of the devastation caused by the disaster or emergency and its

aftermath qualifies for an additional 30 days for insurers to initiate loss adjustment of a property claim after notification of loss by the insured.

C. Therefore, insurers shall have a total of 60 days to initiate loss adjustment of a property damage claim after notification of loss by the insured.

D. This declaration is based on the representation that the additional time period is necessary due to the large volume of claims resulting directly from the disaster or emergency and its aftermath, and with the admonition that insurers will promptly identify, evaluate, and resolve these claims. Insurers must continue to provide timely service to their insureds by promptly acknowledging receipt of claims and making appropriate assignments for the adjustment of claims.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17957. Authority

A. The commissioner reserves the right to extend or rescind all or any portion of the Emergency Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17959. Severability Clause of Emergency Rule

A. If any section or provision of the Emergency Rule or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect any other section or provision or the application of the Emergency Rule to any person or circumstance that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of the Emergency Rule and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17961. Effective Date of Emergency Rule

A. The Emergency Rule shall become effective at 12:01 a.m. on the effective date specified and shall continue in full force and effect until either 11:59 p.m. on the cessation date of the Governor's declaration of emergency, inclusive of any renewal thereof, or the termination date specified in the Emergency Rule, inclusive of any renewal thereof approved pursuant to the requirement in R.S. 22:11(C), whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17963. Severability of Regulation 118

A. If any provision of this regulation, or the applicability thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the regulation which can be given effect without the invalid provision, item, or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

§17965. Effective Date of Regulation 118

A. Regulation 118 shall become effective upon final promulgation in the Louisiana Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

5. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Lisa Henson, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., August 19, 2021.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 118—Requirements in the Event of a Declared Emergency

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The rule is being promulgated to comply with Acts 2021, No. 223, §1 of the Regular Session of the Louisiana Legislature that enacted R.S. 22:11(C), which requires the commissioner to promulgate rules and regulations to govern the business of insurance in the event of a declaration of emergency.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups. The rule is being promulgated to comply with Acts 2021, No. 223, §1 of the Regular Session of the Louisiana Legislature that enacted R.S. 22:11(C), which requires the commissioner to promulgate rules and regulations to govern the business of insurance in the event of a declaration of emergency.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Denise Gardner
Chief of Staff
2107#047

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Rule 7—Legal Expense Insurers
(LAC 37:XI.1909 and 1919)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Rule 7—Legal Expense Insurers by changing the line of insurance applicable to prepaid legal services.

The Louisiana Department of Insurance (“LDI”) is amending Rule 7 to address the proper line of insurance into which prepaid legal services should be placed. When originally introduced as a program, prepaid legal services was placed under the line of “fidelity and surety.” Thereafter, the LDI split “fidelity and surety” into two separate lines, to wit: “fidelity” and “surety.” The LDI subsequently created a new line of insurance, to wit: “miscellaneous.” Upon reviewing the nature of the prepaid legal services program, the LDI has determined that such program properly falls under the definition set forth for “miscellaneous” in La. R.S. 22:47(14). As such, the purpose of the amendment to Rule 7 is to change the line of insurance applicable to prepaid legal services from “fidelity and surety” to “miscellaneous.”

Title 37

INSURANCE

Part XI. Rules

Chapter 19. Rule Number 7—Legal Expense Insurers §1909. Qualifications as Insurer Required

A. Any person who accepts a pre-payment from or for the benefit of any other person or group of persons as consideration for providing to such person or group of persons the opportunity to receive reimbursement or payment for legal services at such time in the future as such services may be appropriate or necessary must meet the

From: [Jana Lee Pruitt](#)
To: [Lisa Henson](#)
Cc: [Jana Lee Pruitt](#)
Subject: Comments on Proposed Regulation 118
Date: Thursday, August 19, 2021 10:59:55 AM
Attachments: [LA--Comments on Proposed Regulation 118 \(8-19-21\).docx](#)

Ms. Henson:

Attached is a brief comment letter on proposed Regulation 118 submitted on behalf of the American Council of Life Insurers.

Thank you—Jana Lee

[We are #MeetingTheMoment for Communities](#)



Jana Lee Pruitt, Regional Vice President, State Relations
(502) 384-6463 t (610) 283-3693 m
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American Council of Life Insurers

acli.com 101 CONSTITUTION AVENUE, NW, SUITE 700, WASHINGTON, DC 20001-2133

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Jana Lee Pruitt
Regional Vice President, State Relations

August 19, 2021

Lisa Henson
Staff Attorney
Louisiana Department of Insurance
P.O. Box 94214
Baton Rouge, LA 70804-9214

Re: Proposed Regulation 118—*Requirements in the Event of a Declared Emergency*

Dear Ms. Henson:

Thank you for the opportunity to comment on behalf of the American Council of Life Insurers on proposed Regulation 118, which would implement Acts 2021, No. 223, §1 of the Regular Session of the Louisiana Legislature authorizing the Commissioner of Insurance to promulgate rules and regulations regarding the business of insurance in the event of a declared emergency or public health emergency.

Section 17915 of the proposed Regulation stipulates the types of insurance and insurers to which subsequent sections of the proposal apply. We would appreciate clarification of the following provision of the proposal:

Section 17915.D

Subsection D stipulates that Sections 17925, 17931, 17933, 17937, 17939.A, 17943, 17945 and 17947 apply only to “those kinds of insurance provided for in §17915.B [i.e., all kinds of health and accident insurance] **and** those health insurance issuers specified in §17913.C [i.e., health and accident insurers, HMOs, MCO, PPOs, PBM, and TPAs acting on behalf of a health insurer, HMO, MCO or PPO].” [Emphasis added.]

Question: Does this mean Sections 17925, 17931, 17933, 17937, 17939.A, 17943, 17945 and

Lisa Henson
August 19, 2021
Page 2

17947 apply only to any kind of health and accident insurance **issued by** a health and accident insurer, HMO, MCO or PPO?

Some of our member companies—all life insurance companies or fraternal benefit societies—offer supplemental benefit products featuring fixed indemnity benefits that provide financial protection against expenses associated with accidents or illnesses not covered by major medical insurance. Their product offerings also include stand-alone policies providing dental or vision coverage and stop loss plans that protect employers self-funding medical plans from higher than expected medical claims. Some of our member companies also write disability income insurance and/or long-term care insurance. We believe the intent of §17915.D is to limit the applicability of Sections 17925, 17931, 17933, 17937, 17939.A, 17943, 17945 and 17947 to health and accident insurance products **issued by** health and accident insurers, HMOs, MCOs or PPOs and not to products issued by life insurance companies or fraternal benefit societies, but request your confirmation.

Thank you, in advance, for your guidance.

Sincerely,

A handwritten signature in black ink that reads "Jana Lee Pruitt". The signature is written in a cursive style with a large, stylized initial "J".

Jana Lee Pruitt

From: [Lisa Henson](#)
To: [Jana Lee Pruitt](#)
Subject: RE: Comments on Proposed Regulation 118
Date: Monday, August 23, 2021 12:00:00 PM

Good morning, Ms. Pruitt,

We are in receipt of your comment regarding proposed Regulation 118.

To the extent the Sections referenced in §17915.D relate to products, they only apply to kinds of insurance provided for in §17915.B; to the Sections referenced in §17915.D relate to insurers, they only apply to health insurance issuers specified in 17913.C. As a practical matter, however, the Department would note that the substance of those sections is generally applicable only to health insurance products offered by health insurance issuers.

Thank you,

Lisa L. Henson

Attorney

Louisiana Department of Insurance

1702 North Third Street

Baton Rouge, LA 70802

225-219-7851 (Direct Line)

225-342-4673 (Legal Services)

225-342-1632 (Fax)

Lisa.Henson@ldi.la.gov

From: Jana Lee Pruitt <JanaLeePruitt@acli.com>
Sent: Thursday, August 19, 2021 11:00 AM
To: Lisa Henson <Lisa.Henson@ldi.la.gov>
Cc: Jana Lee Pruitt <JanaLeePruitt@acli.com>
Subject: Comments on Proposed Regulation 118

Ms. Henson:

Attached is a brief comment letter on proposed Regulation 118 submitted on behalf of the American Council of Life Insurers.

Thank you—Jana Lee

[We are #MeetingTheMoment for Communities](#)



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