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COVID-19 STATE OF EMERGENCY NOTIFICATION FILING REQUIREMENTS (Ins. Code § 10112.95 (AB 2941, Stats. 2018, Ch. 196))

Insurance Code section 10112.95(a) provides that insureds displaced by a declared state of emergency shall have access to medically necessary health care services. In response to the COVID-19 outbreak Governor Gavin Newsom declared a [State of Emergency](#) and issued an [executive order](#). The COVID-19 outbreak has the immediate potential to displace insureds in terms of their ability to access needed medical care, whether through voluntary self-isolation, mandatory shelter-in-place or quarantine orders, or displacement in terms of the ability to access their homes, workplaces, schools, child or dependent care providers, or local communities.

The declared emergency has the “immediate potential to displace insureds” within the meaning of Insurance Code section 10112.95(b). Accordingly, all health insurers operating in California must submit a notification describing 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 during the COVID-19 outbreak, 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.
- 2) The actions the insurer is taking to comply with the Department's [Bulletin](#) dated March 5, 2020 on COVID-19 Screening and Testing.
- 3) How the insurer is complying with section 10112.95(a), which requires insurers to provide displaced insureds with "access to medically necessary health services." The emergency access notification filed with the Department should confirm that the insurer's in-force policies cover all medically necessary treatment for COVID-19 infection and sequelae. As to any large group or grandfathered policy, if an insurer asserts that a medically necessary treatment for COVID-19 infection or sequelae is not covered, the insurer must describe in detail the treatment that is not covered and provide current data on the number of groups and covered lives affected, as applicable.
- 4) The insurer's plan to maximize the use of telehealth in all appropriate settings, including waiving, or expediting, any network provider credentialing, certification, or pre-authorization requirements. This plan should reflect the federal government's request on March 17 that private insurers remove barriers to telehealth, consistent with the federal government's actions in Medicare. The plan must address:
 - a. Whether the insurer permits telehealth use by all types of providers, particularly and expressly as to providers of medical/surgical services, and, separately, as to providers of mental health and substance use disorder services.
 - b. For any service for which telehealth is not permitted, describe how access to the service is provided in a way that avoids unnecessary exposure of insured persons and providers to COVID-19 infection.
 - c. Facilitation of telehealth as an infection control measure through waiver of applicable cost-sharing for services provided via telehealth, even for services for which a cost-sharing amount might apply if provided in-person, and describing the permitted technological methods of accessing covered telehealth services, as well as any limitations on location of service, technology method, or similar limitations.

- 5) 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.
- 6) The insurer's plans for communicating with insureds regarding care options available during the COVID-19 emergency, including provision of a toll-free telephone number.
- 7) In light of recent shelter-in-place orders issued by city and county public health officials, if a health insurer has facilities, operations, and/or staff in jurisdictions subject to shelter-in-place orders, provide the insurer's contingency plans for minimizing potential disruption in its member operations, and ensuring its ability to continue essential business operations, including operations necessary to provide insureds access to medically necessary health care services pursuant to section 10112.95(a).

Because of the nature of this emergency and the associated declaration and order, the required notification must be filed by close of business Friday, March 20. 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 COVID-19." Submit the disaster notification under the "Supporting Documentation" tab.

For questions regarding this notice, please contact Bruce Hinze at Bruce.Hinze@insurance.ca.gov.