



LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON
COMMISSIONER

DIRECTIVE 218

**TO: ALL AUTHORIZED INSURERS AND ALL SURPLUS LINES INSURERS
DOING BUSINESS IN LOUISIANA**

FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE

**RE: MANDATORY PAYMENT OF EXPENSES INCURRED BY
POLICYHOLDERS WHO EVACUATED AND/OR WERE PROHIBITED
FROM USING THEIR PREMISES DUE TO HURRICANE IDA**

DATE: SEPTEMBER 7, 2021

After having issued Bulletin 2021-07, it has come to my attention that some insurers have advised that they will not pay those loss of use claims where no express civil authority order to evacuate was in place.

The civil authority provision in the insurance policy form is placed in the contract for the protection of the insurer. This is to prevent an insured from making a claim for expenses that were not justified by a legitimate need to protect their safety by evacuating. However, the use of that limitation was not intended to unjustly deny coverage to a policyholder who legitimately evacuates to protect their life and health and where it was impracticable for a civil authority to issue a formal order of evacuation.

As stated in Bulletin 2021-07, only seventy-four hours elapsed between the time of the first advisory from the National Hurricane Center about the formation of Tropical Depression Nine and the landfall of Hurricane Ida as a Category 4 hurricane with winds up to 150 mph. There is no doubt Hurricane Ida placed in danger the lives and property of the people in the twenty-five (25) parishes set forth in Emergency Rule 47 and referenced in Bulletin 2021-07.

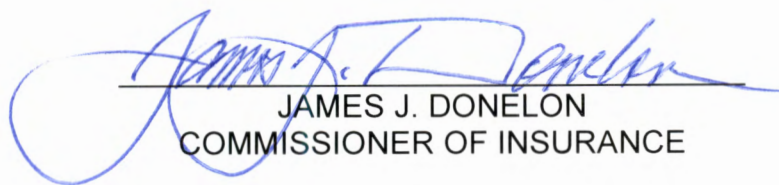
Not only were the advance warnings of impending peril sufficient for any policyholder to evacuate, but the aftermath of Hurricane Ida demonstrated that the warnings of federal, state and local officials, as well as the National Hurricane Center, were correct. Hurricane Ida was a catastrophic event that justified evacuation to protect life and health. As predicted by civil authorities, Hurricane Ida caused loss of life, massive property damage and loss of essential services. Based on the foregoing, it was entirely appropriate for policyholders to evacuate their premises and remain evacuated to protect their health, safety and welfare and that of their families. I note that La. R.S. 29:730.3 provides, in pertinent part, that when an evacuation is ordered, it shall be lifted, in whole or in part, only at such time as public services are available in the area and that area is opened for reentry as determined by the parish homeland security and emergency preparedness agency.

Accordingly, pursuant to the statutory authority vested in me by La. R.S. 22:2(A)(1) and (E), 22:11(A), and 22:861, I direct all authorized insurers and all surplus lines insurers that, to the extent any insurance contract may contain any language that implies the need for a civil authority to issue an evacuation order, they shall treat the multiplicity of actions taken by all public officials and the spirit and intent of all communications issued by all public officials as being tantamount to an order to evacuate that fulfills any such policy requirement. Further, the policyholder retains the obligation to demonstrate that the expenses incurred during the evacuation were reasonable. Directive 218 is limited to the twenty-five parishes listed in my previously issued Emergency Rule 47 and referenced in Bulletin 2021-07.

You are hereby directed to immediately bring your practice into compliance with the unequivocal purpose and intent of Directive 218.

Please be governed accordingly.

Baton Rouge, Louisiana, this 7th day of September 2021.



JAMES J. DONELON
COMMISSIONER OF INSURANCE



LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

BULLETIN 2021-07

TO: ALL AUTHORIZED INSURERS, SURPLUS LINES INSURERS, AND HEALTH MAINTENANCE ORGANIZATIONS

FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE

RE: HURRICANE IDA CIVIL AUTHORITY ORDERS AND LOSS OF USE COVERAGE

DATE: SEPTEMBER 3, 2021

The purpose of Bulletin 2021-07 is to remind all authorized insurers, surplus lines insurers, and health maintenance organizations (hereinafter jointly referred to as “insurers”) who write insurance coverage in Louisiana to abide by the legislative intent of La. R.S. 22:41(4) that policyholders shall have the right to be treated fairly. Insurers should honor the spirit and intent of their policy language when evaluating additional expenses incurred by the insured due to the loss of use of their premises following the issuance, or lack thereof, of a civil authority order as a result of Hurricane Ida.

Seventy-four hours elapsed between the time the National Hurricane Center issued its first advisory about the formation of Tropical Depression Nine and when Hurricane Ida struck Louisiana with winds up to 150 mph. Hurricane Ida formed and intensified so rapidly that many civil authorities were not able to issue mandatory evacuation orders directing their citizens to leave. Nonetheless, many policyholders correctly recognized that Hurricane Ida posed an imminent threat to their lives and took the appropriate steps to evacuate.

In support of his effort to assist victims of Hurricane Ida, I join President Biden in urging insurers to forgo the use of policy language restricting insurance coverage only to areas subjected to a mandatory evacuation order. Public officials were facing a devastating hurricane event on short notice and chose not to use mandatory evacuation orders out of concern that attempts to comply with such an order would significantly jeopardize the safety and welfare of their citizens in their attempt to get out of harm’s way.

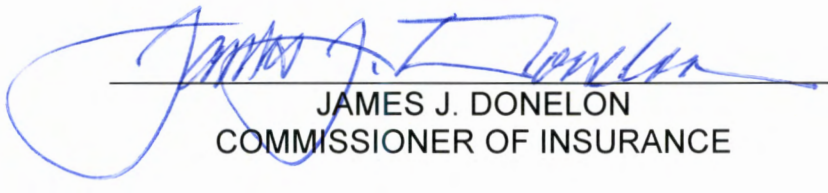
I urge and request that all insurers evaluate civil authority prohibited use claims filed by their policyholders without regard to whether mandatory evacuations were issued as a result of Hurricane Ida. I also urge and request that all insurers interpret their policyholders' evacuation broadly and process claims made for loss of use filed by policyholders and treat them fairly as required by law.

In furtherance of this request, insurers should waive the language contained in their insurance policies requiring mandatory evacuation to trigger civil authority coverage. This request is limited to the 25 parishes listed in my previously issued Emergency Rule 47 (see attached). However, all other provisions relative to insurance coverage for civil authority prohibited use contained in insurers' policies remain in effect and applicable.

All insurers shall notify me of their decision to abide by Bulletin 2021-07 so that I can monitor adherence to this request when fielding consumer complaints.

Any questions or concerns regarding Bulletin 2021-07 should be directed to the Louisiana Department of Insurance, Office of Property and Casualty, at public@ldi.la.gov.

Baton Rouge, Louisiana, the 3rd day of September 2021.



JAMES J. DONELON
COMMISSIONER OF INSURANCE

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Emergency Rule 47—Suspension of Certain Statutes Regarding Cancellations, Terminations, Non-Renewals, and Nonreinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by the State of Emergency Declared by Governor John Bel Edwards on August 26, 2021, Due to Hurricane Ida

On August 26, 2021, President Joseph R. Biden declared a State of Emergency in Louisiana due to the devastation caused by Hurricane Ida and its aftermath. Contemporaneously, Governor John Bel Edwards declared a State of Emergency in Louisiana for the same reasons. Furthermore, President Joseph R. Biden invoked the Stafford Act and declared a national emergency regarding Hurricane Ida and its aftermath which has caused devastation to the lives and property of the citizens of Louisiana, and the residual effect of that storm poses a significant risk to the health, safety and welfare to a substantial number of the citizens of our state.

The Department of Insurance hereby exercises the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), as further specified by R.S. 22:11, and pursuant to the authority granted by R.S. 22:1 et seq., adopts Emergency Rule 47 until September 27, 2021, unless terminated sooner, which is issued to address the statewide public health emergency declared to exist in the state of Louisiana. Emergency Rule 47 became effective August 26, 2021, and shall continue in effect until September 27, 2021, unless terminated sooner, as allowed under the Administrative Procedure Act. Proclamation No. JBE 2021-165 issued on August 26, 2021 by Governor John Bel Edwards declared a State of Emergency extending from August 26, 2021, through September 27, 2021, unless terminated sooner.

Emergency Rule 47 is issued to address the devastation caused by Hurricane Ida and its aftermath that has created emergency conditions threatening the health, safety and welfare of the citizens of Louisiana who are insureds and who either reside in or have insured property located in one of the following twenty-five (25) parishes, to wit: Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana. Emergency Rule 47 is issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2021-165 issued on August 26, 2021 by Governor John Bel Edwards declaring a State of Emergency extending from August 26, 2021, through September 27, 2021; and R.S. 22:11.

Accordingly, Emergency Rule 47 shall apply to any and all types of insurers as set forth in R.S. 22:48, and any and all kinds of insurance as set forth in R.S. 22:47, including, but not limited to all property and casualty insurers, all life insurers, all annuity insurers, and all health maintenance organizations (HMOs), managed care organizations

(MCOs), preferred provider organizations (PPOs), pharmacy benefit managers (PBMs), and third party administrators (TPAs) acting on behalf of an 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”) and their insureds, policyholders, members, subscribers, enrollees and certificate holders.

Hurricane Ida and its aftermath has created a mass disruption to the normalcy previously enjoyed in Louisiana and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. To minimize these threats, the State of Louisiana has had to impose significant measures that will certainly have a negative economic impact on the state, resulting in financial hardship for the citizens of Louisiana regarding all matters related to all types of insurers and all kinds of insurance and threatening access to adequate insurance coverage following an event of this magnitude when such insurance coverage is especially important. In order to respond to the ongoing emergency and to protect and safeguard the public health, safety, and welfare of the citizens of this state, it is necessary to issue Emergency Rule 47.

Title 37

INSURANCE

Part XI. Rules

Chapter 47. **Emergency Rule 47—Suspension of Certain Statutes Regarding Cancellations, Terminations, Non-Renewals, and Nonreinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by the State of Emergency Declared by Governor John Bel Edwards on August 26, 2021, Due to Hurricane Ida**

§4701. **Benefits, Entitlements, Protections and Applicable Parishes**

A. The benefits, entitlements and protections of Emergency Rule 47 shall be applicable to insureds, policyholders, members, subscribers, enrollees and certificate holders (hereinafter “insureds”) who, as of 12:01 a.m. on August 26, 2021, have an insurance policy, insurance contract, or certificate of coverage for any of the kinds of insurance enumerated in §4703, as delineated below, and who meet one of the following criteria.

1. Any person who, as of August 26, 2021, resided in one of the following twenty-five (25) parishes, to wit: Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana. Said person is entitled to the protections of Emergency Rule 47 for the kinds of insurance set forth in §4703.A and B.

2. For the kinds of insurance enumerated in §4703.B, any person whose primary place of employment was in, or whose permanent employer had assigned said person to a business located in, one of the twenty-five (25) parishes identified in §4701.A.1, shall be eligible for the benefits, entitlements and protections of Emergency Rule 47 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 §4703.A, any insured who does not reside in one of the twenty-five (25) parishes enumerated in §4701.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 Hurricane Ida and its aftermath to property located in one of the twenty-five (25) parishes enumerated in §4701.A, shall be entitled to contact the insurer and request the benefits, entitlements, and protections of Emergency Rule 47. These insurers are directed to work with their insureds who have filed a notice of loss on a property claim for damage caused by Hurricane Ida and its aftermath and provide accommodation as applicable, relevant and appropriate.

B. Emergency Rule 47 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. Emergency Rule 47 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 Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4703. Applicability and Scope

A. Emergency Rule 47 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 Emergency Rule 47 to health and accident insurance is specified in §4703.B.

B. Emergency Rule 47 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. Section §4715 and Section §4727.B of Emergency Rule 47 shall apply to only those kinds of insurance provided for in §4703.A and those types of insurers specified in §4701.B.

D. Sections §4713, §4719, §4721, §4725, §4727.A, §4731, §4733, and §4735 of Emergency Rule 47 shall apply only to those kinds of insurance provided for in §4703.B and those health insurance issuers specified in §4701.C.

E. All provisions of Emergency Rule 47 not expressly limited in §4703.C and D shall apply to all types of insurers and all kinds of insurance as defined in §4701 and §4703.

F. Nothing in §4703 shall be interpreted to apply the provisions of Emergency Rule 47 to policies of insurance issued for the benefit of insureds not subject to the Benefits, Entitlements, and Protections enumerated in §4701.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4705. Cancellation, Nonrenewal, and Nonreinstatement

A. Emergency Rule 47 hereby suspends any notice of cancellation, notice of nonrenewal, nonreinstatement or any other notice related to any of the types of insurance enumerated in §4703 that was in force and effect at 12:01 a.m. on August 26, 2021, and any such notice shall be null and void and have no force of effect. Furthermore, any such notice shall be reissued de novo to the insured in accordance with existing statutory requirements after the expiration of Emergency Rule 47 as provided for in §4749.

B. Insurers may issue a notice of cancellation for non-payment of premium during the pendency of Emergency Rule 47. When any such notice is issued during the pendency of Emergency Rule 47, 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 non-payment of premium until after the expiration of Emergency Rule 47.

C. No policy shall be cancelled or nonrenewed solely because of a claim that is filed during or is caused by Hurricane Ida 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 §4703 is hereby suspended and shall not be allowed until after the expiration of Emergency Rule 47 as provided for in §4749.

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 §4737, Emergency Rule 47 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 Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4707. Renewal

A. The renewal conditions of all kinds of insurance enumerated in §4703 that are subject to renewal after the effective date of Emergency Rule 47 are suspended and shall be deferred until the expiration of Emergency Rule 47 as provided for in §4749. All policies subject to renewal after the effective date of Emergency Rule 47 shall continue in full force and effect at the previously established premium until the expiration of Emergency Rule 47 as provided for in §4749. 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 of Insurance, regardless of whether their effective date was before or during Emergency Rule 47. 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 of Insurance before or during Emergency Rule 47.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4709. Written Request for Cancellation by Insured

A. Except as provided for in §4737 herein, a cancellation shall not occur prior to the expiration of Emergency Rule 47 unless upon the documented written request or written concurrence of the insured. This written consent may be in electronic format.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4711. New Policies

A. Emergency Rule 47 shall not apply to any new insurance policy for any of the kinds of insurance enumerated in §4703 if said insurance policy is issued on or after August 26, 2021.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4713. 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 Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4715. Premium Offset

A. All insurers subject to Emergency Rule 47 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. Section §4715 shall not apply to health insurance issuers as defined in §4701.C.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4717. Obligation of Insured to Pay Premium

A. Unless otherwise cancelled in accordance with the provisions of §4709 herein, nothing in Emergency Rule 47 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 Emergency Rule 47 are advised that this suspension is not a waiver, but only an extension or grace period to facilitate your 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 Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4719. 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 §4703.B which, as a result of nonpayment of premium, would be subject to cancellation or termination but for the suspension ordered in §4705, the health insurance issuer may pend all claims which would not have been denied under such cancellation or termination 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 non-payment of premium.

C. The health insurance issuer shall notify providers of the possibility for denied claims when and 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 for 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 §4719.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 Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4721. 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. After the first month of the grace period has lapsed, the health insurance issuer may deny payment on pended claims for services rendered to the insured during the period of nonpayment.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4723. Insureds Obligation to Cooperate in Claim Process

A. Emergency Rule 47 shall not relieve an insured who has a claim filed before or during the pendency of Emergency Rule 47 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 Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4725. 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 §4701.A or §4701.B between 12:01 a.m. on August 26, 2021, and the expiration of Emergency Rule 47 as provided for in §4749.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4727. New Rate or Premium

A. For all health insurance issuers specified in §4701.C, any rate increases that were filed prior to the effective date of Emergency Rule 47, or any rate increase that did not require a filing with the commissioner regarding which notice had already been sent to the group policyholder prior to the effective date of Emergency Rule 47, may be implemented as scheduled. No other rate increase may be implemented unless approved by the commissioner.

B. For all other insurers, as specified in §4701.B, Emergency Rule 47 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 §4703.A if the new rate or premium has been approved by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4729. 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 Emergency Rule 47.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4731. 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 Emergency Rule 47 as provided for in §4749. 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 Emergency Rule 47.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4733. 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 Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4735. 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 Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4737. Fraud or Material Misrepresentation

A. Emergency Rule 47 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 Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4739. Exemption from Compliance

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 47 upon the 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 Emergency Rule 47 may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4741. Sanctions for Violations

A. The commissioner retains the authority to enforce violations of Emergency Rule 47. Accordingly, any insurer enumerated in Emergency Rule 47 or any other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of Emergency Rule 47 shall be subject to regulatory action by the commissioner under any applicable provisions of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4743. Sixty Day Period to Initiate Adjustment of Property Claims

A. In accordance with R.S. 22:1892(A)(3), Hurricane Ida 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 claimant.

B. In furtherance of R.S. 22:1892(A)(3), the severity of the devastation caused by Hurricane Ida and its aftermath qualifies for an additional thirty (30) days for insurers to initiate loss adjustment of a property claim after notification of loss by the insured claimant.

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

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 Hurricane Ida 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 insured claimants by promptly acknowledging receipt of claims and making appropriate assignments for the adjustment of claims.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4745. Authority

A. The commissioner reserves the right to amend, modify, alter, extend, or rescind all or any portion of Emergency Rule 47.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4747. Severability Clause

A. If any section or provision of Emergency Rule 47 or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect other section or provision or the application of Emergency Rule 47 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 Emergency Rule 47 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4749. Effective Date

A. Emergency Rule 47 became effective at 12:01 a.m. on August 26, 2021 and shall continue in full force and effect until either 11:59 p.m. on September 27, 2021 or 11:59 p.m. on the cessation date of the Governor's Proclamation No. JBE 2021-165, inclusive of any renewal thereof, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

James J. Donelon
Commissioner

2108#014

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Emergency Rule 47—Suspension of Certain Statutes Regarding Cancellations, Terminations, Non-Renewals, and Nonreinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by the State of Emergency Declared by Governor John Bel Edwards on August 26, 2021, Due to Hurricane Ida

On August 26, 2021, President Joseph R. Biden declared a State of Emergency in Louisiana due to the devastation caused by Hurricane Ida and its aftermath. Contemporaneously, Governor John Bel Edwards declared a State of Emergency in Louisiana for the same reasons. Furthermore, President Joseph R. Biden invoked the Stafford Act and declared a national emergency regarding Hurricane Ida and its aftermath which has caused devastation to the lives and property of the citizens of Louisiana, and the residual effect of that storm poses a significant risk to the health, safety and welfare to a substantial number of the citizens of our state.

The Department of Insurance hereby exercises the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), as further specified by R.S. 22:11, and pursuant to the authority granted by R.S. 22:1 et seq., adopts Emergency Rule 47 until September 27, 2021, unless terminated sooner, which is issued to address the statewide public health emergency declared to exist in the state of Louisiana. Emergency Rule 47 became effective August 26, 2021, and shall continue in effect until September 27, 2021, unless terminated sooner, as allowed under the Administrative Procedure Act. Proclamation No. JBE 2021-165 issued on August 26, 2021 by Governor John Bel Edwards declared a State of Emergency extending from August 26, 2021, through September 27, 2021, unless terminated sooner.

Emergency Rule 47 is issued to address the devastation caused by Hurricane Ida and its aftermath that has created emergency conditions threatening the health, safety and welfare of the citizens of Louisiana who are insureds and who either reside in or have insured property located in one of the following twenty-five (25) parishes, to wit: Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana. Emergency Rule 47 is issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2021-165 issued on August 26, 2021 by Governor John Bel Edwards declaring a State of Emergency extending from August 26, 2021, through September 27, 2021; and R.S. 22:11.

Accordingly, Emergency Rule 47 shall apply to any and all types of insurers as set forth in R.S. 22:48, and any and all kinds of insurance as set forth in R.S. 22:47, including, but not limited to all property and casualty insurers, all life insurers, all annuity insurers, and all health maintenance organizations (HMOs), managed care organizations

(MCOs), preferred provider organizations (PPOs), pharmacy benefit managers (PBMs), and third party administrators (TPAs) acting on behalf of an 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”) and their insureds, policyholders, members, subscribers, enrollees and certificate holders.

Hurricane Ida and its aftermath has created a mass disruption to the normalcy previously enjoyed in Louisiana and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. To minimize these threats, the State of Louisiana has had to impose significant measures that will certainly have a negative economic impact on the state, resulting in financial hardship for the citizens of Louisiana regarding all matters related to all types of insurers and all kinds of insurance and threatening access to adequate insurance coverage following an event of this magnitude when such insurance coverage is especially important. In order to respond to the ongoing emergency and to protect and safeguard the public health, safety, and welfare of the citizens of this state, it is necessary to issue Emergency Rule 47.

Title 37

INSURANCE

Part XI. Rules

Chapter 47. **Emergency Rule 47—Suspension of Certain Statutes Regarding Cancellations, Terminations, Non-Renewals, and Nonreinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by the State of Emergency Declared by Governor John Bel Edwards on August 26, 2021, Due to Hurricane Ida**

§4701. Benefits, Entitlements, Protections and Applicable Parishes

A. The benefits, entitlements and protections of Emergency Rule 47 shall be applicable to insureds, policyholders, members, subscribers, enrollees and certificate holders (hereinafter “insureds”) who, as of 12:01 a.m. on August 26, 2021, have an insurance policy, insurance contract, or certificate of coverage for any of the kinds of insurance enumerated in §4703, as delineated below, and who meet one of the following criteria.

1. Any person who, as of August 26, 2021, resided in one of the following twenty-five (25) parishes, to wit: Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana. Said person is entitled to the protections of Emergency Rule 47 for the kinds of insurance set forth in §4703.A and B.

2. For the kinds of insurance enumerated in §4703.B, any person whose primary place of employment was in, or whose permanent employer had assigned said person to a business located in, one of the twenty-five (25) parishes identified in §4701.A.1, shall be eligible for the benefits, entitlements and protections of Emergency Rule 47 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 §4703.A, any insured who does not reside in one of the twenty-five (25) parishes enumerated in §4701.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 Hurricane Ida and its aftermath to property located in one of the twenty-five (25) parishes enumerated in §4701.A, shall be entitled to contact the insurer and request the benefits, entitlements, and protections of Emergency Rule 47. These insurers are directed to work with their insureds who have filed a notice of loss on a property claim for damage caused by Hurricane Ida and its aftermath and provide accommodation as applicable, relevant and appropriate.

B. Emergency Rule 47 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. Emergency Rule 47 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 Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4703. Applicability and Scope

A. Emergency Rule 47 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 Emergency Rule 47 to health and accident insurance is specified in §4703.B.

B. Emergency Rule 47 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. Section §4715 and Section §4727.B of Emergency Rule 47 shall apply to only those kinds of insurance provided for in §4703.A and those types of insurers specified in §4701.B.

D. Sections §4713, §4719, §4721, §4725, §4727.A, §4731, §4733, and §4735 of Emergency Rule 47 shall apply only to those kinds of insurance provided for in §4703.B and those health insurance issuers specified in §4701.C.

E. All provisions of Emergency Rule 47 not expressly limited in §4703.C and D shall apply to all types of insurers and all kinds of insurance as defined in §4701 and §4703.

F. Nothing in §4703 shall be interpreted to apply the provisions of Emergency Rule 47 to policies of insurance issued for the benefit of insureds not subject to the Benefits, Entitlements, and Protections enumerated in §4701.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4705. Cancellation, Nonrenewal, and Nonreinstatement

A. Emergency Rule 47 hereby suspends any notice of cancellation, notice of nonrenewal, nonreinstatement or any other notice related to any of the types of insurance enumerated in §4703 that was in force and effect at 12:01 a.m. on August 26, 2021, and any such notice shall be null and void and have no force of effect. Furthermore, any such notice shall be reissued de novo to the insured in accordance with existing statutory requirements after the expiration of Emergency Rule 47 as provided for in §4749.

B. Insurers may issue a notice of cancellation for non-payment of premium during the pendency of Emergency Rule 47. When any such notice is issued during the pendency of Emergency Rule 47, 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 non-payment of premium until after the expiration of Emergency Rule 47.

C. No policy shall be cancelled or nonrenewed solely because of a claim that is filed during or is caused by Hurricane Ida 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 §4703 is hereby suspended and shall not be allowed until after the expiration of Emergency Rule 47 as provided for in §4749.

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 §4737, Emergency Rule 47 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 Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4707. Renewal

A. The renewal conditions of all kinds of insurance enumerated in §4703 that are subject to renewal after the effective date of Emergency Rule 47 are suspended and shall be deferred until the expiration of Emergency Rule 47 as provided for in §4749. All policies subject to renewal after the effective date of Emergency Rule 47 shall continue in full force and effect at the previously established premium until the expiration of Emergency Rule 47 as provided for in §4749. 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 of Insurance, regardless of whether their effective date was before or during Emergency Rule 47. 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 of Insurance before or during Emergency Rule 47.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4709. Written Request for Cancellation by Insured

A. Except as provided for in §4737 herein, a cancellation shall not occur prior to the expiration of Emergency Rule 47 unless upon the documented written request or written concurrence of the insured. This written consent may be in electronic format.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4711. New Policies

A. Emergency Rule 47 shall not apply to any new insurance policy for any of the kinds of insurance enumerated in §4703 if said insurance policy is issued on or after August 26, 2021.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4713. 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 Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4715. Premium Offset

A. All insurers subject to Emergency Rule 47 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. Section §4715 shall not apply to health insurance issuers as defined in §4701.C.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4717. Obligation of Insured to Pay Premium

A. Unless otherwise cancelled in accordance with the provisions of §4709 herein, nothing in Emergency Rule 47 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 Emergency Rule 47 are advised that this suspension is not a waiver, but only an extension or grace period to facilitate your 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 Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4719. 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 §4703.B which, as a result of nonpayment of premium, would be subject to cancellation or termination but for the suspension ordered in §4705, the health insurance issuer may pend all claims which would not have been denied under such cancellation or termination 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 non-payment of premium.

C. The health insurance issuer shall notify providers of the possibility for denied claims when and 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 for 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 §4719.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 Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4721. 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. After the first month of the grace period has lapsed, the health insurance issuer may deny payment on pended claims for services rendered to the insured during the period of nonpayment.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4723. Insureds Obligation to Cooperate in Claim Process

A. Emergency Rule 47 shall not relieve an insured who has a claim filed before or during the pendency of Emergency Rule 47 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 Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4725. 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 §4701.A or §4701.B between 12:01 a.m. on August 26, 2021, and the expiration of Emergency Rule 47 as provided for in §4749.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4727. New Rate or Premium

A. For all health insurance issuers specified in §4701.C, any rate increases that were filed prior to the effective date of Emergency Rule 47, or any rate increase that did not require a filing with the commissioner regarding which notice had already been sent to the group policyholder prior to the effective date of Emergency Rule 47, may be implemented as scheduled. No other rate increase may be implemented unless approved by the commissioner.

B. For all other insurers, as specified in §4701.B, Emergency Rule 47 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 §4703.A if the new rate or premium has been approved by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4729. 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 Emergency Rule 47.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4731. 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 Emergency Rule 47 as provided for in §4749. 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 Emergency Rule 47.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4733. 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 Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4735. 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 Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4737. Fraud or Material Misrepresentation

A. Emergency Rule 47 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 Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4739. Exemption from Compliance

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 47 upon the 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 Emergency Rule 47 may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4741. Sanctions for Violations

A. The commissioner retains the authority to enforce violations of Emergency Rule 47. Accordingly, any insurer enumerated in Emergency Rule 47 or any other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of Emergency Rule 47 shall be subject to regulatory action by the commissioner under any applicable provisions of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4743. Sixty Day Period to Initiate Adjustment of Property Claims

A. In accordance with R.S. 22:1892(A)(3), Hurricane Ida 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 claimant.

B. In furtherance of R.S. 22:1892(A)(3), the severity of the devastation caused by Hurricane Ida and its aftermath qualifies for an additional thirty (30) days for insurers to initiate loss adjustment of a property claim after notification of loss by the insured claimant.

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

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 Hurricane Ida 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 insured claimants by promptly acknowledging receipt of claims and making appropriate assignments for the adjustment of claims.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4745. Authority

A. The commissioner reserves the right to amend, modify, alter, extend, or rescind all or any portion of Emergency Rule 47.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

§4747. Severability Clause

A. If any section or provision of Emergency Rule 47 or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect other section or provision or the application of Emergency Rule 47 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 Emergency Rule 47 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

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

§4749. Effective Date

A. Emergency Rule 47 became effective at 12:01 a.m. on August 26, 2021 and shall continue in full force and effect until either 11:59 p.m. on September 27, 2021 or 11:59 p.m. on the cessation date of the Governor's Proclamation No. JBE 2021-165, inclusive of any renewal thereof, whichever occurs first.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2021-165, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., and R.S. 49:950 et seq.

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

James J. Donelon
Commissioner

2108#014