

BEFORE THE NEW MEXICO SUPERINTENDENT OF INSURANCE

**IN THE MATTER OF AN)
EMERGENCY ORDER TO PROTECT)
ACCESS TO INSURANCE AND THE)
STABILITY OF INSURANCE)
MARKETS IN FIRE EMERGENCIES)
_____)**

Docket No. 2022-0041

EMERGENCY ORDER

THIS MATTER having come before the New Mexico Superintendent of Insurance (“the Superintendent”) upon executive orders issued by the Honorable Michelle Lujan Grisham, Governor of the State of New Mexico, addressing fire emergencies in various parts of the State of New Mexico under the Constitution and laws of New Mexico, including the All Hazard Emergency Management Act, NMSA 1978, Sections 12-1-1 through 12-10-10 (1959, as amended through 2007);

THE SUPERINTENDENT FINDS AND CONCLUDES:

1. The Superintendent has jurisdiction over this matter pursuant to the New Mexico Insurance Code, NMSA 1978, Sections 59A-1-1 et seq. and specifically NMSA 1978, Section 59A-2-8(A)(11) and (B) (2021);
2. The Governor of the State of New Mexico, the Honorable Michelle Lujan Grisham, has declared in Executive Order 2022-017, issued April 22, 2022, an emergency in San Miguel County, New Mexico due to the Hermit’s Peak Fire and as of the date of this Emergency Order has not renewed, modified, or rescinded Executive Order 2022-017;
3. The Governor of the State of New Mexico, the Honorable Michelle Lujan Grisham, has declared in Executive Order 2022-018, issued April 22, 2022, an emergency in Valencia County, New Mexico due to the Big Hole Fire and as of the date of this Emergency Order has not renewed, modified, or rescinded Executive Order 2022-018;

4. The Governor of the State of New Mexico, the Honorable Michelle Lujan Grisham, has declared in Executive Order 2022-019, issued April 22, 2022, an emergency in Colfax County, New Mexico due to the Cooks Peak Fire and as of the date of this Emergency Order has not renewed, modified, or rescinded Executive Order 2022-019;

5. The Governor of the State of New Mexico, the Honorable Michelle Lujan Grisham, has declared in Executive Order 2022-020, issued April 22, 2022, an emergency in Lincoln County, New Mexico due to the Lincoln County Fire Event and as of the date of this Emergency Order has not renewed, modified, or rescinded Executive Order 2022-020;

6. The Governor of the State of New Mexico, the Honorable Michelle Lujan Grisham, has declared in Executive Order 2022-021, issued April 23, 2022, an emergency in Mora County, New Mexico due to the Cooks and Calf Fires and as of the date of this Emergency Order has not renewed, modified, or rescinded Executive Order 2022-021;

7. The Governor of the State of New Mexico, the Honorable Michelle Lujan Grisham, has declared in Executive Order 2022-025, issued May 3, 2022, an emergency in Sandoval County, New Mexico due to the Cerro Pelado Fire Event and as of the date of this Emergency Order has not renewed, modified, or rescinded Executive Order 2022-025;

8. Upon an order by the Governor based upon the invocation of a state of emergency under the All Hazard Emergency Management Act, the Superintendent, pursuant to NMSA 1978, Section 59A-2-8(A)(11), may “take those actions necessary to ensure access to insurance and the stability of insurance markets during the emergency[,]” including issuing emergency orders to address any or all of the following:

- (a) grace periods for payment of insurance premiums and performance of other duties by insureds;
- (b) refund of premiums;
- (c) waiver of cost sharing or deductibles;

- (d) temporary postponement of cancellations and nonrenewals;
- (e) reporting requirements for claims; and
- (f) suspension of compliance with a statute, rule or contract, if strict compliance would prevent, hinder or delay necessary action in response to the emergency;

9. Each of the Governor's executive orders details the damage to the counties involved in the wildfires, the destruction of homes and other structures, the impact to local infrastructure, the undue human and animal suffering, the threats to the health, safety, and welfare of citizens, the threats to the economic function of those counties, and in several counties, the evacuation of residents from their homes;

10. The Superintendent finds that the social and economic dislocation of residents, along with widespread and catastrophic property damage, caused by the fires that are the subject of the Governor's executive orders, threaten access to insurance and the stability of insurance markets during the emergency;

11. The Superintendent further finds that residents who have left their homes and temporarily relocated to other areas may have lost access to health care providers, their prescription medications, and other necessary health services;

12. The Superintendent additionally finds that residents who have left their homes and temporarily relocated to other areas may have lost access to records and documents that would assist them in filing claims for destroyed or damaged property; and

13. The Superintendent finds that it is necessary to issue this Emergency Order to protect access to insurance and the stability of insurance markets during the emergencies declared in the Governor's executive orders.

IT IS THEREFORE ORDERED that:

A. With respect to policy holders whose residence is in the fire impacted counties identified in this order, insurers who write health insurance policies in New Mexico shall:

1. Provide a grace period of 90 days for payment of insurance premiums and offer policy holders a payment plan of no less than six (6) months if unable to pay the delinquency after the 90-day grace period;

2. Waive cost sharing and deductibles for 120 days;

3. Postpone cancellations and non-renewals for no less than 120 days;

4. Waive early-refill time limits on active prescriptions for 60 days;

5. Permit one eyeglass or contact lens replacement and one hearing aid replacement during the pendency of this Order, waiving frequency limitations;

6. Permit one replacement for dentures or other prosthodontic devices during the pendency of this Order, waiving frequency limits;

7. Permit replacement of covered disposable medical supplies and durable medical equipment (DME) during the pendency of this Order, waiving frequency limits; and

8. Waive additional fees, charges, referrals and prior authorization requirements for use of out-of-network providers for medically necessary services, whether emergent or not.

B. Insurers who write health insurance policies in New Mexico shall extend medical providers' reporting requirements for claims submissions and for additional information relating to claims for at least 120 days;

C. With respect to policy holders whose residence or business is in the fire impacted counties identified in this order, insurers who write property or homeowners policies in New Mexico shall:

1. Provide a grace period of 90 days for payment of insurance premiums and offer policy holders a payment plan of no less than six (6) months if unable to pay the delinquency after the 90-day grace period;

2. Waive deductibles for 120 days;

3. Postpone cancellations and non-renewals for no less than 120 days;
4. Waive deductibles for Additional Living Expenses (ALE) for any homeowners displaced and requiring ALE, and provide ALE for up to 12 months or until such time as the displace homeowner establishes a new residence, whichever occurs first;
5. Extend reporting requirements for claims submissions or requests for additional information relating to claims for at least 120 days;
6. Allow insureds to request a duplicate copy of their policy at no additional costs; and
7. Suspend late payment, reinstatement or insufficient funds fees along with any other fee, penalty, or interest charge resulting from the insured's temporary inability to submit premium payments;

D. With respect to policy holders whose residence or business is in the fire impacted counties identified in this order, that insurers who write automobile policies in New Mexico shall:

1. Provide a grace period of 90 days for payment of insurance premiums, and that policy holders be offered a payment plan of no less than six (6) months if unable to pay the delinquency after the 90-day grace period;
2. Waive deductibles for 120 days;
3. Postpone cancellations and non-renewals for no less than 120 days;
4. Extend reporting requirements for claims submissions or requests for additional information relating to claims for at least 120 days;
5. Extend reporting requirements for claims submissions or requests for additional information relating to claims for at least 120 days;
6. Allow insureds to request a duplicate copy of their policy at no additional costs; and

7. Suspend late payment, reinstatement or insufficient funds fees along with any other fee, penalty, or interest charge resulting from the insured's temporary inability to submit premium payments;

E. Insurers impacted by this order are directed to make every reasonable effort to assist policy holders by informing them of the provisions of this order. Insurers are expected to document their outreach efforts to those who suffered property damage, injuries, and other losses as a result of the catastrophic fires;

F. This Emergency Order shall take effect for San Miguel County, New Mexico immediately and shall remain in effect until Executive Order 2022-017 is rescinded by the Governor or until September 30, 2022, whichever occurs first;

G. This Emergency Order shall take effect for Valencia County, New Mexico immediately and shall remain in effect until Executive Order 2022-018 is rescinded by the Governor or until September 30, 2022, whichever occurs first;

H. This Emergency Order shall take effect for Colfax County, New Mexico immediately and shall remain in effect until Executive Order 2022-019 is rescinded by the Governor or until September 30, 2022, whichever occurs first;

I. This Emergency Order shall take effect for Lincoln County, New Mexico immediately and shall remain in effect until Executive Order 2022-020 is rescinded by the Governor or until September 30, 2022, whichever occurs first;

J. This Emergency Order shall take effect for Mora County, New Mexico immediately and shall remain in effect until Executive Order 2022-021 is rescinded by the Governor or until September 30, 2022, whichever occurs first;

K. This Emergency Order shall take effect for Sandoval County, New Mexico immediately and shall remain in effect until Executive Order 2022-025 is rescinded by the Governor or until September 30, 2022, whichever occurs first;

L. Copies of this Order shall be sent to all persons listed as service recipients on OSI's eDocket;

M. This Order shall be uploaded on the OSI Newsletter and sent out as a large volume correspondence to all Insurers licensed in New Mexico on the State Based System; and

N. This docket shall remain open until further written order of the Superintendent.

ISSUED under the seal of the New Mexico Office of Superintendent of Insurance at Santa Fe, New Mexico, this 11th day of May, 2022.



HON. RUSSELL TOAL
Superintendent of Insurance

Additional Resources:

<https://www.governor.state.nm.us/about-the-governor/executive-orders/>

<https://www.nmdhsem.org/2022-wildfires/>

<https://www.osi.state.nm.us/>

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 11th day of May 2022, I filed the *Emergency Order* through the OSI's e-filing system, which caused the parties to be served by electronic means, as more fully reflected on the eService recipients list for this case.



MELISSA Y. GUTIERREZ, Law Clerk
Office of Legal Counsel
Office of Superintendent of Insurance