

BEFORE THE NEW MEXICO SUPERINTENDENT OF INSURANCE

**IN THE MATTER OF AN)
EMERGENCY ORDER AUTHORIZING)
EMERGENCY FUNDS FOR THE)
STABILITY OF INSURANCE MARKETS)
IN FLOODING EMERGENCIES)
_____)**

Docket No. 2024-0087

EMERGENCY ORDER

THIS MATTER having come before the New Mexico Superintendent of Insurance (Superintendent) upon executive order issued by the Honorable Michelle Lujan Grisham, Governor of the State of New Mexico, addressing flooding emergencies in Chavez County 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 2024-155, issued October 21, 2024, an emergency in Chavez County, New Mexico due to the severe flooding that began on October 19, 2024, as a result of an excessive amount of rainfall in a short period of time;

3. 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.

4. The Governor’s executive order details the damage to the areas involved in the flooding, the damage to infrastructure, homes, and businesses through multiple communities, including the City of Roswell, the rescue of over three hundred people, the hospitalization of at least thirty-eight people and deaths of two people, the displacement of hundreds of people, and the threats to the health, safety, and welfare of citizens, the threats to the economic function of the county;

5. The Governor’s executive order authorizes the Department of Finance and Administration to make available emergency financial resources in an amount not to exceed seven hundred and fifty thousand dollars (\$750,000.00) (the funds) to the Department of Homeland Security and Emergency Management in accordance with NMSA 1978, Sections 12-11-23 to 12-11-25 and NMSA 1978, Sections 12-10-14 to 12-10-15.

6. The funds are required to be expended for the resources and services necessary to avoid or minimize economic or physical harm until the situation becomes stabilized; or on a temporary, emergency basis for lodging, sheltering, health care, food, any transportation or shipping necessary to protect lives or public property; or for any other action necessary to protect the public health, safety, welfare, and property and shall be expended in accordance with the policy

and procedures of the Department of Homeland Security and Emergency Management as approved by the Governor or her Authorized Representative;

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

8. The Superintendent further finds that residents who have left their homes, been ordered to evacuate their homes, and who are temporarily or permanently relocated to other areas, may have lost access to health care providers, their prescription medications, and other necessary health services;

9. The Superintendent additionally finds that residents who have left their homes, been ordered to evacuate their homes, and temporarily or permanently 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

10. 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 order.

IT IS THEREFORE ORDERED that:

A. With respect to policy holders whose residence is in the flood impacted areas identified in this Emergency Order, insurers who write health insurance policies in New Mexico, for the next 120 days, shall:

1. Provide a grace period 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 120-day grace period;

2. Waive cost sharing and deductibles;
3. Postpone cancellations and non-renewals;
4. Waive early-refill time limits on active prescriptions;
5. Allow replacement for lost or damaged medication;
6. Permit one eyeglass or contact lens replacement and one hearing aid replacement during the pendency of this Emergency Order, waiving frequency limitations;
7. Permit one replacement for dentures or other prosthodontic devices during the pendency of this Emergency Order, waiving frequency limits;
8. Permit replacement of covered disposable medical supplies and durable medical equipment (DME) during the pendency of this Emergency Order, waiving frequency limits; and
9. Waive additional fees, charges, referrals, eligibility and prior authorization requirements for medically necessary services, whether emergent or not. This applies to benefits and services obtained from both in- and out-of-network providers.

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. Insurers who write health insurance policies in New Mexico shall fully reimburse out-of-network providers at the usual, customary, and reasonable rate or at an agreed upon rate outlined in Subsection E of 13.10.22.8 NMAC. Where such information is unavailable, insurers shall use the Surprise Billing rate outlined in NMSA 1978, Section 59A-57A-13;

D. With respect to policy holders whose residence or business is in the flood impacted

areas identified in this Emergency Order, insurers who write property or homeowners policies in New Mexico, for the next 120 days, shall:

1. Provide a grace period 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 120-day grace period;
2. Waive deductibles;
3. Postpone cancellations and non-renewals;
4. Extend reporting requirements for claims submissions or requests for additional information relating to claims;
5. Allow insureds to request a duplicate copy of their policy at no additional costs; and
6. 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. With respect to policy holders whose residence or business is in the flood impacted areas identified in this Emergency Order, that insurers who write automobile policies in New Mexico, for the next 120 days, shall:

1. Provide a grace period 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 120-day grace period;
2. Waive deductibles;
3. Postpone cancellations and non-renewals;
4. Extend reporting requirements for claims submissions or requests for

additional information relating to claims;

5. Extend reporting requirements for claims submissions or requests for additional information relating to claims;

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;

F. Insurers impacted by this Emergency Order are directed to make every reasonable effort to assist policy holders by informing them of the provisions of this Emergency 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 flooding;

G. This Emergency Order shall take effect immediately for Chavez County and shall remain in effect until the funds authorized by the Governor in the Executive Order 2024-155 have been expended or until the funds are no longer necessary to provide emergency assistance;


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

I. This Emergency 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

J. 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 21st day of October 2024.




ALICE T. KANE
SUPERINTENDENT OF INSURANCE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 21st day of October 2024, 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.


Jennifer Romero, Law Clerk
NM OSI Office of General Counsel