

PUBLICATION

Emergency Rule 47: What Insurers and Insureds Need to Know in the Wake of Hurricane Ida

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In response to the catastrophic loss caused by Hurricane Ida and its aftermath, the Louisiana Department of Insurance recently adopted Emergency Rule 47, which provides qualified insureds with various protections and prevents the cancellation, nonrenewal, and non-reinstatement of insurance. During its pendency, Emergency Rule 47 prohibits insurers from cancelling or refusing to renew insurance policies and suspends any such notices that were in effect at the commencement of the Rule. Moreover, Emergency Rule 47 requires that insurers waive various requirements that will provide insureds with more immediate access to health care. This alert will summarize several provisions of Emergency Rule 47 that should be considered by both insureds and insurers in the wake of Hurricane Ida.

Timing

Emergency Rule 47 became effective on August 26, 2021, and will remain in effect until September 27, 2021, unless terminated beforehand.

Qualified Insureds Under §4701 of Emergency Rule 47

The protections and benefits provided under the Rule extend to insureds who, as of 12:01 a.m. on August 26, 2021, hold an insurance policy, and who reside in, or have insured property in, one of the following parishes:

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.

Moreover, those whose primary place of employment is in one of the abovementioned parishes or who have been assigned by their employer to a business in one of these parishes are entitled to the benefits of Emergency Rule 47 as it pertains to health and accident insurance. However, Emergency Rule 47 does not apply to any insurance policies issued on or after August 26, 2021.

Types of Insurance Covered Under Emergency Rule 47

Emergency Rule 47 covers virtually all types of insurance, including life, vehicle, liability, homeowners', credit property and casualty, health, and accident insurance.

Benefits, Entitlements, and Protections Granted Under Emergency Rule 47

Emergency Rule 47 provides several protections, and suspends several statutes, pertaining to cancellations, renewals, and premium payments. The protections and suspensions provided under the Rule include the following:

Cancellation, Nonrenewal, and Non-reinstatement

- Any notice issued in connection with one of the covered types of insurance (including notices of cancellation, nonrenewal, and non-reinstatement) that was in effect at 12:01 a.m. on August 26, 2021, is suspended under Emergency Rule 47 and will be reissued after the Rule has expired.
- During the pendency of Emergency Rule 47, insurers may not cancel insurance policies for non-payment of premiums. However, insurers may still issue notices of cancellation for non-payment, and applicable notice periods may still commence to run during this time. Moreover, Emergency Rule 47 does not prohibit insurers from cancelling policies due to fraud or intentional misrepresentation of material fact caused by insureds.
- All cancellations, nonrenewals, or non-reinstatements of insurance policies covered under Emergency Rule 47 are suspended and will not be allowed to occur until after the expiration of the Rule unless such cancellation is made upon the written request or written concurrence of the insured. In addition, the Rule suspends all cancellation, nonrenewal, or non-reinstatement provisions to the extent they do not apply to instances of fraud or intentional misrepresentation of material fact.
- Emergency Rule 47 prohibits insurers from cancelling or refusing to renew insurance policies when such cancellations are based solely on claims that are filed or caused by Hurricane Ida or its aftermath.

Renewal

- Insureds cannot be required to provide notice of renewal during the duration of Emergency Rule 47.
- The renewal conditions of insurance policies subject to renewal after August 26, 2021 are suspended and deferred until after the expiration of Emergency Rule 47. Such policies will remain in effect at the previously established premium until Emergency Rule 47 expires.

Payment of Premiums

- Emergency Rule 47 suspends provisions requiring timely payment of insurance premiums. However, Emergency Rule 47 does not exempt insureds from the obligation to pay premiums, and insurers must work with insureds in securing such payments either by establishing a payment plan or providing an extension for payment of any unpaid premiums.
- Insurers are entitled to offset premiums owed against any claim payments, with the exception of health insurance issuers.

Claims Notifications

- Emergency Rule 47 suspends all claims notification procedures during the duration of the Rule.

Property Claims

- Because of the catastrophic nature of Hurricane Ida, insurers have a total of 60 days to initiate loss adjustment on property damage claims following notice by an insured.

Health and Accident Insurance Provisions Under Emergency Rule 47

Emergency Rule 47 contains a number of protections and suspensions that are specific to health and accident insurance, including the following:

- Health insurance issuers may pend claims during a period of premium delinquency but must notify health care providers of the possibility of claim denial if the insured is within the grace period provided under Emergency Rule 47. Once a delinquent payment is made, the insurer must process and adjudicate all claims.
- After the first 30 days of the grace period has ended, health insurance issuers may deny claims for services rendered during the period of nonpayment.
- Emergency Rule 47 suspends any rate increases other than those implemented prior to the effective date of the Rule.
- A health insurance issuer who has issued a group policy must provide an option for continuation of coverage at the end of the grace period if the employer remains in business and continues to offer group health coverage during the duration of Emergency Rule 47.
- Emergency Rule 47 contains several provisions that expand the accessibility of medical care, including the suspension of physician credentialing, waiving restrictions relating to telemedicine, and loosening the requirements for refilling prescription medicines.

If you have any questions about Emergency Rule 47, or would like to learn more about matters relating to insurance coverage in the wake of Hurricane Ida, please contact [Matt Woolf](#).