

**PROGRAM DIVISION  
BULLETIN**

**2005-54**

**September 23, 2005**

**IMPORTANT INFORMATION REGARDING  
EMERGENCY RULES ENACTED IN LOUISIANA**

Louisiana Insurance Commissioner Robert Wooley announced that Gov. Kathleen Blanco signed an executive order that allows the commissioner the temporary authority to implement certain emergency insurance rules in the wake of the aftermath of Hurricane Katrina.

As part of the executive order, Commissioner Wooley has issued Emergency Rules 15, 16 and 17 (to Title 37, Part XI, Chapter 27 of the Louisiana Insurance Code), retroactive to August 26, 2005. A full copy of the Emergency Rules have been attached for your review. Provisions in these emergency rules include the following:

- (1) Insurance companies cannot cancel or non-renew insurance policyholders in the affected parishes listed. These are policyholders who have all types of insurance, including, but not limited to flood, homeowners, auto, life, health and workers' comp;
- (2) No policy can be canceled or non-renewed solely because of a Hurricane Katrina claim;
- (3) Citizens affected by Hurricane Katrina in the specified parishes will receive an automatic extension of time to pay insurance premiums due on or after August 26, without any late fees or penalties;

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- (4) Citizens with health insurance coverage in the specified parishes may receive medical care out-of-network and prescription medication out-of-network without penalty;
- (5) Public adjusters must register with the Department of Insurance and admitted insurance companies must register their adjusters with the Department;
- (6) Public adjusters cannot charge a percentage of the final claim as payment for their services. They can charge a flat fee or an hourly fee.

If you have any additional questions regarding this notice, please contact your Program Manager.

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**TITLE 37  
INSURANCE  
PART XI CHAPTER 27: EMERGENCY RULE 16**

**REGISTRATION OF PUBLIC INSURANCE ADJUSTERS ACTIVELY  
ENGAGED IN THE SETTLEMENT OF CLAIMS AND DAMAGES  
RESULTING FROM HURRICANE KATRINA**

**TO: All Authorized and Surplus Lines Insurers doing business in Louisiana and/or regulated by the Commissioner of Insurance and the Louisiana Department of Insurance**

Emergency Rule 16 is issued pursuant to the plenary authority of the Commissioner of Insurance for the state of Louisiana, including, but not limited to, the following: Proclamation No. 48 KBB 2005 issued on August 26, 2005 by Governor Kathleen Babineaux Blanco declaring a State of Emergency; Executive Order No. KBB 2005 - 40 issued September 19, 2005 by Governor Kathleen Babineaux Blanco transferring authority over any and all insurance matters to Commissioner of Insurance J. Robert Wooley (Commissioner); LSA R.S. 29:724; LSA R.S. 29:766; LSA R.S. 22:2; LSA R.S. 22:3; LSA R.S. 22:1214.(7), (12) and (14); LSA R.S. 49:950 et seq.

On August 26, 2005, Governor Kathleen Babineaux Blanco declared a State of Emergency within the state of Louisiana in response to the expected landfall of Hurricane Katrina. As a result of the hurricane's landfall, Hurricane Katrina caused extensive power outages and massive flooding that destroyed many homes and impacted the livelihood of the citizens of Louisiana.

Because of the catastrophic and devastating effects of the hurricane, the Louisiana Department of Insurance (LDOI) is issuing Emergency Rule 16 in regards to the settlement and business practices of insurance adjusters in the state of Louisiana. In an effort to protect the public interest and welfare of citizens of this state, all public adjusters operating in this state are to register with the LDOI.

Any and all persons having questions or the need for any additional information should contact the Louisiana Department of Insurance at (225) 342-5900 or (800) 259-5300.

Accordingly, IT IS HEREBY ORDERED:

- 16.1 Emergency Rule 16 is applicable to all public adjusters, as defined in LSA-R.S. 22:1476(A).
- 16.2 All public adjusters shall register with the LDOI pursuant to an electronic registration form that has been developed and is available by using the direct link set forth herein below. The form is also on the LDOI's Web site and may be printed, if necessary. Persons may fax a completed form to the LDOI at (225) 219-9322 or they may walk in and complete the form here at the LDOI. No notice will be sent out advising that the registration has been received, as that information can be accessed using the Company Search option on the LDOI's Web site at [www.ldi.state.la.us](http://www.ldi.state.la.us).
- 16.3 In the settlement of claims for losses and damages, public adjusters shall comply with the following prohibitions:
  - A. Any contracts or arrangements made between insured persons and public adjusters are against public policy and are null and void if the adjuster's fee is contingent upon or calculated as a percentage of the amount of any claims paid to or paid on behalf of the insured persons, in compliance with the requirements of LSA R.S. 22:1476.B.
  - B. Insurance companies shall not pay affiliated adjusters any fee or compensation in excess of a regular fixed salary or stipend. An insurer cannot contract to pay an adjuster a percentage of costs saved to the insurer through efforts of the adjuster, as per the requirements of LSA-R.S. 22:1453.A.
- 16.4 All insurance companies shall provide to the LDOI, in writing, the names and social security numbers of those adjusters who will be actively engaged in the settlement of losses and damages resulting from this catastrophe.
- 16.5 In compliance with the requirements of LSA-R.S. 22:1220, all public adjusters, as well as all insurance companies, owe a duty of good faith and fair dealing to insured persons in the state of Louisiana. Therefore, failure to comply with Emergency Rule 16 will be considered a violation of the Louisiana Insurance Code and administrative action will be taken by the LDOI and/or any appropriate law enforcement agency.
- 16.6 Every insurer shall distribute copies of Emergency Rule 16 to every person or entity directly responsible for the handling and settlement of claims in conjunction herewith.

- 16.7 The provisions of Emergency Rule 16 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of Louisiana.
- 16.8 The Commissioner reserves the right to amend, modify, alter or rescind all or any portions of Emergency Rule 16.
- 16.9 If any section or provision of Emergency Rule 16 that is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 16, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.
- 16.10 Emergency Rule 16 shall become effective at 12:01 a.m. on August 26, 2005 and shall continue in full force and effect for the duration of the present State of Emergency proclaimed by Governor Kathleen Babineaux Blanco, or any subsequent State of Emergency proclamation made thereafter by the Governor with regard to Hurricane Katrina or its aftermath.

Baton Rouge, Louisiana, this 20th day of September, 2005.

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**J. Robert Wooley**  
**Commissioner of Insurance**

<https://www.lidi.state.la.us/AdjusterRegistration/AdjusterRegistration.aspx>

**TITLE 37  
INSURANCE  
PART XI CHAPTER 27: EMERGENCY RULE 15**

**SUSPENSION OF CERTAIN STATUTES AND REGULATIONS  
REGARDING CANCELLATIONS, NON-RENEWALS,  
REINSTATEMENTS, PREMIUM PAYMENTS, CLAIM FILINGS  
AND RELATED PROVISIONS REGARDING  
ANY AND ALL INSURANCE MATTERS AFFECTING INSURED IN  
LOUISIANA CAUSED BY HURRICANE KATRINA**

**TO: All Insurers, HMOs, Surplus Lines and any and all other entities  
doing business in Louisiana and/or regulated by the Commissioner of  
Insurance and the Louisiana Department of Insurance**

Emergency Rule 15 is issued pursuant to the plenary authority of the Commissioner of Insurance for the State of Louisiana, including, but not limited to, the following: Proclamation No. 48 KBB 2005 issued on August 26, 2005 by Governor Kathleen Babineaux Blanco declaring a State of Emergency; Executive Order No. KBB 2005 - 40 issued September 19, 2005 by Governor Kathleen Babineaux Blanco transferring authority over any and all insurance matters to Commissioner of Insurance J. Robert Wooley (Commissioner); LSA R.S. 29:724; LSA R.S. 29:766; LSA R.S. 22:2; LSA R.S. 22:3; LSA R.S. 22:1214.(7), (12) and (14); LSA R.S. 49:950 et seq.

On August 26, 2005, Governor Kathleen Babineaux Blanco declared the existence of a State of Emergency within the state of Louisiana caused by Hurricane Katrina. This State of Emergency extends from Friday, August 26, 2005 through Sunday, September 25, 2005.

Thousands of Louisiana citizens have suffered damages due to Hurricane Katrina. In some places, it could be months before electricity is restored. The homes of many Louisiana citizens were destroyed precluding habitation and the delivery of mail. This disruption has affected the ability of these citizens to pay their insurance premiums, access their insurance policies, and communicate with insurance agents and their respective insurance companies for insurance related matters. Hurricane Katrina has created a mass disruption to the normalcy previously enjoyed by Louisianians and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens.

The Commissioner will be hindered in the proper performance of the duties and responsibilities regarding this State of Emergency without the authority to suspend

certain statutes in the Louisiana Insurance Code and the rules and regulations that implement the Louisiana Insurance Code including, but not limited to, cancellation, nonrenewal, reinstatement, premium payment and claim filings with regard to any and all types of insurance subject to the Louisiana Insurance Code.

In light of this, Emergency Rule 15 is issued and shall apply to all insurers, HMOs, health and accident insurers, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the Commissioner, including any entity enumerated in Emergency Rule 17, regarding any and all types of insurance, including, but not limited to, flood insurance, homeowners insurance, life insurance, health and accident insurance, limited benefit insurance, vehicle insurance, liability insurance, workers' compensation insurance, burglary and forgery insurance, glass insurance, fidelity and surety insurance, title insurance, fire and extended coverage insurance, steam boiler and sprinkler leakage insurance, crop and livestock insurance, marine and transportation insurance, credit life, medical supplement insurance, credit property and casualty insurance, annuity insurance, HMOs, professional and medical malpractice liability insurance, property and casualty insurance, all surplus lines insurance, self insurance funds, reciprocal insurance and any and all other insurance related entities licensed by the Commissioner or doing business in Louisiana.

Emergency Rule 15 is applicable to insureds, as defined in Section 15.1, from the following seven (7) primary parishes: **Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, and Washington**. Emergency Rule 15 is also applicable to insureds, as defined in Section 15.1, from the following seven (7) secondary parishes: **Lafourche, Livingston, St. Charles, St. James, St. John the Baptist, St. Mary and Terrebonne**. The zip codes applicable to these seven (7) primary parishes include, but may not be limited to, the list identified as "Hurricane Katrina Seven Primary Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at [www.ldi.state.la.us](http://www.ldi.state.la.us). The zip codes applicable to the seven (7) secondary parishes include, but may not be limited to, the list identified as "Hurricane Katrina Seven Secondary Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at [www.ldi.state.la.us](http://www.ldi.state.la.us). Insureds shall include, but not be limited to, any and all policyholders, members, subscribers and certificate holders.

In the ordinary course of business, insurers, HMOs, health and accident insurers, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the Commissioner and other entities send notices to insureds, many of which are required by statute, giving the insured certain limited periods of time within which to pay premiums or otherwise respond. Hurricane Katrina and its aftermath have produced a disruption in the notification process because of the inability of insureds to receive mail due to mandatory evacuations and/or the destruction of their homes. Thus, many of Hurricane Katrina's victims are currently unable to timely act or respond to such notices or to pay insurance premiums and need additional time within which to act or respond. Some insurers, HMOs, health and accident insurers, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the Commissioner and other entities may attempt to

cancel, nonrenew or not reinstate such insurance policies. Additionally, some insureds with policies in force as of 12:01 a.m. on August 26, 2005, who wish to make timely payment, are also prevented from making such payment because of the aforementioned circumstances. This could result in an insured being without coverage and/or potentially uninsured. Emergency Rule 15 provides emergency relief to the insureds of Louisiana affected by Hurricane Katrina and its aftermath so that they will be insured and their coverage will continue under those policies that were in effect as of 12:01 a.m. on August 26, 2005.

Accordingly, IT IS HEREBY ORDERED:

15.1 The benefits, entitlements and protections of Emergency Rule 15 shall be applicable to insureds who, as of 12:01 a.m. on August 26, 2005 had a policy or contract for any of the types of insurance enumerated in Section 15.2, and meet one of the following criteria:

- A. Any person who, as of August 26, 2005, resided in one of the following seven (7) primary parishes: Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa and Washington. The zip code for these seven (7) primary parishes is on the list identified as "Hurricane Katrina Seven Primary Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at [www.ldi.state.la.us](http://www.ldi.state.la.us).
- 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 seven (7) primary parishes enumerated in Section 15.1.A shall be eligible to be defined as an insured if said person verifies such employment status by written documentation to his insurer. No insurer shall unreasonably withhold eligibility to an insured upon receipt of such written documentation.
- C. Any person who, as of August 26, 2005, resided in one of the following seven (7) secondary parishes: Lafourche, Livingston, St. Charles, St. James, St. John the Baptist, St. Mary and Terrebonne. However any such person shall only be eligible to be defined as an insured if said person obtains written documentation from either the Chief Executive Officer of the applicable parish of the person or the United States Postal Service that said person incurred an interruption of mail service after August 26, 2005. The zip code for these seven (7) secondary parishes is on the list identified as "Hurricane Katrina Seven Secondary Parish Zip Code List" found on the official Louisiana Department of Insurance internet Web site at [www.ldi.state.la.us](http://www.ldi.state.la.us).
- D. Nothing in Emergency Rule 15 shall preclude an insurer from voluntarily applying the provisions of Emergency Rule 17 relating to cancellation, nonrenewal and nonreinstatement to any other person who is



an insured and who resides in any parish other than the parishes set forth in Section 15.1.A or 15.1.C.

- 15.2 Emergency Rule 15 shall apply to any and all types of insurance, including, but not limited to, flood insurance, homeowners insurance, life insurance, health and accident insurance, limited benefit insurance, vehicle insurance, liability insurance, workers' compensation insurance, burglary and forgery insurance, glass insurance, fidelity and surety insurance, title insurance, fire and extended coverage insurance, steam boiler and sprinkler leakage insurance, crop and livestock insurance, marine and transportation insurance, credit life, medical supplement insurance, credit property and casualty insurance, annuity insurance, HMOs, professional and medical malpractice liability insurance, property and casualty insurance, all surplus lines insurance, self insurance funds, disability insurance, reciprocal insurance and any and all other insurance related entities licensed by the Commissioner or doing business in Louisiana.
- 15.3 Any statutory or regulatory provision, or any policy provision contained in any and all policies of insurance set forth in Section 15.2 above, shall be suspended to the extent that said statutory or regulatory provision, or policy provision, imposed upon an insured a time limit to perform any act or transmit information or funds with respect to any insurance enumerated in Section 15.2 above, which act or transmittal was to have been performed on or after 12:01 AM on August 26, 2005. The time limit for any such performance, act or transmittal shall be suspended during the term of the present State of Emergency, and any subsequent State of Emergency declared thereafter, with regard to Hurricane Katrina or its aftermath.
- 15.4. Emergency Rule 15 hereby suspends any notice of cancellation, notice of nonrenewal, nonreinstatement or any other notice related to any of the types of insurance enumerated in Section 15.2 that was in force and effect at 12:01 a.m. on August 26, 2005, and any such action shall be null and void and have no force or effect. Furthermore, any such notice shall be reissued *de novo* to the insured in accordance with existing statutory requirements after the expiration of the present State of Emergency, or any subsequent State of Emergency, related to Hurricane Katrina or its aftermath has been lifted by Governor Kathleen Babineaux Blanco.
- 15.5 Any and all provisions in the Louisiana Insurance Code relative to providing for a premium finance company to act on behalf of and/or as agent for an insurance company are hereby suspended. In furtherance thereof, the right, entitlement, legal provision or any other form of legal authority, including any policy provision, of any and all insurers to send a notice of cancellation is suspended effective 12:01 a.m. on August 26, 2005 and shall remain suspended during the State of Emergency related to Hurricane Katrina and its aftermath. Emergency Rule 15 hereby suspends the right of any insurer to utilize the services of a premium finance company to issue any such notice to any insured.

- 15.6 No policy shall be cancelled or nonrenewed solely because of a claim resulting from Hurricane Katrina or its aftermath.
- 15.7 Except as provided for in Section 15.13, the cancellation of any and all types of insurance enumerated in Section 15.2, including, but not limited to, flood insurance, homeowners insurance, life insurance, health and accident insurance, limited benefit insurance, vehicle insurance, liability insurance, workers' compensation insurance, burglary and forgery insurance, glass insurance, fidelity and surety insurance, title insurance, fire and extended coverage insurance, steam boiler and sprinkler leakage insurance, crop and livestock insurance, marine and transportation insurance, credit life, medical supplement insurance, credit property and casualty insurance, annuity insurance, HMOs, professional and medical malpractice liability insurance, property and casualty insurance, all surplus lines insurance, self insurance funds, disability insurance, reciprocal insurance and any and all other insurance related entities licensed by the Commissioner or doing business in Louisiana, is hereby suspended and shall not be allowed until the State of Emergency declared by Governor Kathleen Babineaux Blanco with regard to Hurricane Katrina or its aftermath has been lifted.
- 15.8 A. Except as provided for in Section 15.13 the nonrenewal or nonreinstatement of any and all types of insurance enumerated in Section 15.2 herein and in Emergency Rule 17.2, including any and all other insurance licensed by the Commissioner, or doing business in Louisiana, that was in effect at 12:01 a.m. on August 26, 2005 is hereby suspended and shall be deferred until January 1, 2006.
- B. Any rate increase that may be applicable to any and all types of insurance enumerated in Section 15.2 herein and in Emergency Rule 17.2, including any and all other insurance licensed by the Commissioner, or doing business in Louisiana, that was in effect at 12:01 a.m. on August 26, 2005 shall be deferred until January 1, 2006, and said insurance shall continue in full force and effect until January 1, 2006 at the previously established premium.
- 15.9 If an insured requests from his insurer a copy of the policy the insurer shall provide a copy of the requested policy to the insured without any charge or fee.
- 15.10 The provisions of Emergency Rule 15 shall not apply to any new policies of insurance for the types of insurance enumerated in Emergency Rule 15 if said insurance policy was issued on or after 12:01 a.m. August 26, 2005.
- 15.11 Emergency Rule 15 shall not affect the right of any insurer to implement a new rate or premium for any policy of insurance enumerated in Section 15.3 if the new rate or premium had been approved for implementation by the Commissioner on

or before July 31, 2005, or if the insurer had mailed to the insurer the notice of the new rate or premium on or before July 31, 2005.

- 15.12 All insurers regulated by Emergency Rule 15, including, but not limited to, property and casualty insurers, surplus lines insurers and any and all other entities doing business in Louisiana and/or regulated by the Commissioner and other similar or related entities receiving a claim from an insured owing a premium may offset the premium that is owed by the insured from any claim payment made to the insured under the policy. Section 15.13 is not applicable to health insurance issuers, HMOs, PPOs, MCOs, TPAs or any other health insurance entities doing business in Louisiana and/or regulated by the Commissioner.
- 15.13 A cancellation shall not occur prior to the expiration of the State of Emergency or any subsequent State of Emergency related to Hurricane Katrina and its aftermath, unless upon the documented written request or written concurrence of the insured.
- 15.14 Unless otherwise cancelled pursuant to the provisions of Section 15.13 herein, nothing in Emergency Rule 15 shall be construed to exempt or excuse an insured from the obligation to pay the premiums otherwise due for actual insurance coverage provided.
- 15.15 Emergency Rule 15 shall not prevent an insurer from canceling or terminating a policy of insurance for fraud or material misrepresentation on the part of the insured.
- 15.16 Emergency Rule 15 shall not relieve an insured who has a claim caused by Hurricane Katrina or its aftermath from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to the claim.
- 15.17 The right of an insurer to impose or levy any interest, penalty, fee or other charge is hereby suspended until the present State of Emergency, or any subsequent State of Emergency, related to Hurricane Katrina or its aftermath has been lifted by Governor Kathleen Babineaux Blanco.
- 15.18 Notwithstanding any other provision contained herein, the Commissioner may exempt any insurer from compliance with Emergency Rule 15 upon the written request by the insurer if the Commissioner determines that compliance with Emergency Rule 15 may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.
- 15.19 The provisions of Emergency Rule 15 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of Louisiana.

- 15.20 The Commissioner retains the sole authority to enforce violations of Emergency Rule 15. Accordingly, any insurer enumerated in Emergency Rule 15 or other entity doing business in Louisiana and/or regulated by the Commissioner who violates any provision of Emergency Rule 15 shall be subject to prosecution by the Commissioner under any applicable provisions of the Louisiana Insurance Code, including the provisions of the LSA R.S. 22:250.41, et seq., 22:1211, et seq., and specifically including, but not limited to, LSA R.S. 22:1214(7), (12) and (14). Additionally, the penalty provisions set forth in LSA R.S. 22:1217 shall be applicable. These provisions include penalties of \$1,000.00 for each separate act, or \$25,000.00 for each separate act if the violator knew or reasonably should have known he was in violation of Emergency Rule 15, as well as a cease and desist order and the imposition of other penalties and suspension or revocation of the license. Additionally, LSA R.S. 22:1220, which, among other things, imposes the obligation of good faith and fair dealing shall also be subject to the sole enforcement authority of the Commissioner. This law sets forth penalties and exemplary damages which shall be enforceable by the Commissioner for any violation of Emergency Rule 15. Finally, the Commissioner reserves the sole right to make the determination regarding whether any violator shall be subject to any and all other applicable civil and criminal sanctions for violations of Emergency Rule 15.
- 15.21 The Commissioner reserves the right to amend, modify, alter or rescind all or any portions of Emergency Rule 15.
- 15.22 If any section or provision of Emergency Rule that is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 15, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.
- 15.23 Emergency Rule 15 shall become effective at 12:01 a.m. on August 26, 2005 and shall continue in full force and effect for the duration of the present State of Emergency proclaimed by Governor Kathleen Babineaux Blanco, or any subsequent State of Emergency proclamation made thereafter.

Baton Rouge, Louisiana, this 20th day of September, 2005.

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**J. Robert Wooley**  
**Commissioner of Insurance**

**TITLE 37  
INSURANCE  
PART XI CHAPTER 27: EMERGENCY RULE 17**

**SUSPENSION OF CERTAIN STATUTES AND REGULATIONS  
REGARDING HEALTH INSURANCE  
AND RELATED PROVISIONS REGARDING  
ANY AND ALL HEALTH INSURANCE MATTERS AFFECTING INSURED IN  
LOUISIANA CAUSED BY HURRICANE KATRINA**

**TO: All Health Insurance Issuers, Health Maintenance Organizations, Preferred Provider Organizations, Managed Care Organizations, Third Party Administrators and any and all other health insurance entities doing business in Louisiana and/or regulated by the Commissioner of Insurance pursuant to the Louisiana Insurance Code**

Emergency Rule 17 is issued pursuant to the plenary authority of the Commissioner of Insurance for the state of Louisiana, including, but not limited to, the following: Proclamation No. 48 KBB 2005 issued on August 26, 2005 by Governor Kathleen Babineaux Blanco declaring a State of Emergency; Executive Order No. KBB 2005 - 40 issued September 19, 2005 by Governor Kathleen Babineaux Blanco transferring authority over any and all insurance matters to Commissioner of Insurance J. Robert Wooley (Commissioner); LSA R.S. 29:724; LSA R.S. 29:766; LSA R.S. 22:2; LSA R.S. 22:3; LSA R.S. 22:1214.(7), (12) and (14); LSA R.S. 49:950 et seq.

On August 26, 2005, Governor Kathleen Babineaux Blanco declared a State of Emergency within the state of Louisiana in response to the expected landfall of Hurricane Katrina. As a result of the hurricane's landfall, Hurricane Katrina caused extensive power outages and massive flooding that destroyed many homes and impacted the livelihood of the citizens of Louisiana.

Thousands of Louisiana citizens have suffered damages due to Hurricane Katrina. In some places, it could be months before electricity is restored. The homes of many Louisiana citizens were destroyed precluding habitation and the delivery of mail. This disruption has affected the ability of these citizens to pay their insurance premiums, access their insurance policies, and communicate with insurance agents and their respective insurance companies for insurance-related matters. Hurricane Katrina has created a mass disruption to the normalcy previously enjoyed by Louisianians and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens.

The Commissioner will be hindered in the proper performance of his duties and responsibilities regarding this State of Emergency without the authority to suspend certain statutes in the Louisiana Insurance Code and the rules and regulations that implement the Louisiana Insurance Code including, but not limited to, cancellation, nonrenewal, reinstatement, premium payment and claim filings with regard to any and all types of health insurance subject to the Louisiana Insurance Code.

In light of this, I hereby issue Emergency Rule 17 to any and all health insurance issuers, Health Maintenance Organizations (hereinafter HMOs), Preferred Provider Organizations (hereinafter PPOs), Managed Care Organizations (hereinafter MCOs), Third Party Administrators (TPAs) and any other health insurance entities doing business in Louisiana and/or regulated by the Commissioner pursuant to the Louisiana Insurance Code regarding any and all types of health 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, excess loss insurance, stop loss insurance, disability income insurance, short-term health insurance, long-term care insurance, and any and all other types of health insurance regulated by the Louisiana Insurance Code.

Emergency Rule 17 is applicable to insureds, as defined in Section 17.1, from the following seven (7) primary parishes: **Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa, and Washington.** Emergency Rule 17 is also applicable to insureds, as defined in Section 17.1, from the following seven (7) secondary parishes: **Lafourche, Livingston, St. Charles, St. James, St. John the Baptist, St. Mary and Terrebonne.** The zip codes applicable to these seven (7) primary parishes include, but may not be limited to, the list identified as "Hurricane Katrina Seven Primary Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at [www.ldi.state.la.us](http://www.ldi.state.la.us). The zip codes applicable to the seven (7) secondary parishes include, but may not be limited to, the list identified as "Hurricane Katrina Seven Secondary Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at [www.ldi.state.la.us](http://www.ldi.state.la.us). Insureds shall include, but not be limited to, any and all policyholders, members, subscribers and certificate holders.

In the ordinary course of business, health insurance issuers, HMOs, PPOs, MCOs, TPAs and any and all other health insurance entities doing business in Louisiana and/or regulated by the Commissioner pursuant to the Louisiana Insurance Code regarding any and all types of health 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, excess loss insurance, stop loss insurance, disability insurance, short-term care insurance, long-term care insurance and any and all other health insurance regulated by the Louisiana Insurance Code, are subject to certain requirements with regard to health insurance matters affecting insured citizens in Louisiana. Hurricane Katrina has produced a disruption in the health insurance industry. Thus, many of the insureds in the seven (7) parishes referenced above are currently unable to timely act or respond to their health insurance needs. Additionally, some insureds with policies in force on August 26, 2005, who wish to make timely

premium payments, are also prevented from making such payment because of the aforementioned circumstances. This could result in an insured being without coverage and/or potentially uninsured. Emergency Rule 17 provides emergency relief to the insureds of Louisiana affected by Hurricane Katrina and its aftermath so that these insureds will be insured and their coverage will continue under those policies that were in effect as of 12:01 a.m. on August 26, 2005.

Accordingly, IT IS HEREBY ORDERED:

- 17.1 The benefits, entitlements and protections of Emergency Rule 17 shall be applicable to insureds who, as of 12:01 a.m. on August 26, 2005 had a policy or contract for any of the types of insurance enumerated in Section 17.2, and meet one of the following criteria:
- A. Any person who, as of August 26, 2005, resided in one of the following seven (7) primary parishes: Jefferson, Orleans, Plaquemines, St. Bernard, St. Tammany, Tangipahoa and Washington. The zip code for these seven (7) primary parishes is on the list identified as "Hurricane Katrina Seven Primary Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at [www.ldi.state.la.us](http://www.ldi.state.la.us).
  - 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 seven (7) primary parishes enumerated in Section 17.1.A shall be eligible to be defined as an insured if said person verifies such employment status by written documentation to his insurer. No insurer shall unreasonably withhold eligibility to an insured upon receipt of such written documentation.
  - C. Any person who, as of August 26, 2005, resided in one of the following seven (7) secondary parishes: Lafourche, Livingston, St. Charles, St. James, St. John the Baptist, St. Mary and Terrebonne. However any such person shall only be eligible to be defined as an insured if said person obtains written documentation from either the Chief Executive Officer of the applicable parish of the person or the United States Postal Service that said person incurred an interruption of mail service after August 26, 2005. The zip code for these seven (7) secondary parishes is on the list identified as "Hurricane Katrina Seven Secondary Parish Zip Code List" found on the official Louisiana Department of Insurance internet Web site at [www.ldi.state.la.us](http://www.ldi.state.la.us).
  - D. Nothing in Emergency Rule 17 shall preclude an insurer from voluntarily applying the provisions of Emergency Rule 17 relating to cancellation, nonrenewal and nonreinstatement to any other person who is an insured and who resides in any parish other than the parishes set forth in Section 17.1.A or 17.1.C.

- 17.2 Emergency Rule 17 shall apply to any and all types of health 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, excess loss insurance, stop loss insurance, disability income insurance, short-term health insurance, long-term care insurance and any and all other health insurance.
- 17.3 All health insurance issuers and HMOs with insureds in the parishes enumerated in Section 17.1 shall waive any and all restrictions relative to out-of-network access to health care services. This shall include, but not be limited to, HMOs, PPOs and MCOs. To avoid delays in accessing care, all health insurance issuers, HMOs, PPOs and MCOs shall waive requirements for medical certifications or pre-certifications, referrals, medical necessity reviews and notification of hospital admissions. The right of health insurance issuers, HMOs, PPOs and MCOs to conduct retrospective medical necessity reviews and retrospectively deny any and all claims is hereby suspended for non-elective health care services. Additionally, the right of health insurance issuers, HMOs, PPOs and MCOs to recoup or offset with regard to any and all claims for non-elective health care services is hereby suspended. Non-elective health care services are those that are urgent, emergent, or necessary in order to not place the health of the insured at risk. Any and all claims subject to Section 17.3 shall not be applicable to elective health care services, cosmetic health care services or non-covered services.
- 17.4 When the health insurance issuer, HMO, PPO or MCO receives the premium due, the health insurance issuer, HMO, PPO and MCO shall be obligated to pay a claim at either billed charges, or the higher of the non-participating rate/allowance or the contracted reimbursement rate. Once the health insurance issuer or HMO selects one of the options above, the health insurance issuer or HMO shall reimburse said claim at the highest benefit level in the policy or the highest percentage in the policy. The purpose and intent is to minimize the insured's out-of-pocket expense. The insured shall be held harmless and indemnified by the health insurance issuers, HMOs, PPOs and MCOs for any out of pocket expense, except for any applicable co-payments, deductibles or co-insurance. All health care professionals and health care providers rendering services to an insured from the parishes enumerated in Section 17.1 shall comply with the Health Care Consumer Billing and Protection Act pursuant to LSA R.S. 22:250.41, *et seq.* Nothing in Section 17.4 shall be construed to require health insurance issuers, HMOs, PPOs or MCOs to pay a claim submitted by a participating health care provider or health care professional at a rate or allowance that is higher than the applicable contracted reimbursement rate or allowance.
- 17.5 All health insurance issuers and HMOs shall maintain compliance with LSA R.S. 22:250.1, *et seq.*, titled Assuring Portability, Availability and Renewability of Health Insurance Coverage, and any applicable federal law.



- 17.6 All cancellation, termination, nonrenewal and nonreinstatement provisions, including, but not limited to, LSA R.S. 22:250.7, 22:250.13, 22:215.9, 22:636.F and 22:2027 are hereby suspended. Additionally, all provisions of Emergency Rule 15 relating to notice of cancellation, termination, nonrenewal and nonreinstatement are incorporated herein by reference as if set forth herein *in extenso*.
- 17.7 Any and all types of health insurance, including, but not limited to, group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, excess loss insurance, stop loss insurance, disability income insurance, short-term health insurance, long-term care insurance and any and all other health insurance regulated by the Louisiana Insurance Code that are subject to renewal between August 26, 2005 and January 1, 2006 are suspended and shall be renewed effective January 1, 2006, and any rate increases that were to take effect between August 26, 2005 and January 1, 2006 are suspended and shall be deferred until January 1, 2006. All types of health insurance, including, but not limited to, group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, excess loss insurance, stop loss insurance, disability income insurance, short-term health insurance, long-term care insurance and any and all other health insurance regulated by the Louisiana Insurance Code in effect at 12:01 a.m. on August 26, 2005 shall continue in full force and effect until January 1, 2006 at the previously established premium.
- 17.8 All claims notification procedures, including, but not limited to, LSA R.S. 22:213.A.(3) through (5), Regulation 33, Regulation 74 and Regulation 77, are suspended.
- 17.9 All laws relating to timely payment are suspended and, in furtherance thereof, the following rules shall apply to timely payment:
- A. Medical Care or Services – LSA R.S. 22:250.32 through 34 and Regulation 74 (Sections 6007 through 6011)
- (1) The Commissioner hereby suspends the forty-five (45) day time limit for payment of claims for non-electronic claims submission until further notice. (See LSA R.S. 22:250.32 and the penalty provisions of LSA R.S. 22:250.32.C.)
  - (2) The Commissioner hereby suspends the twenty-five (25) day time limit for payment of claims for electronic claims submission until further notice. (See LSA R.S. 22:250.33 and the penalty provisions of LSA R.S. 22:250.33.C.)
  - (3) The Commissioner hereby suspends the thirty day (30) time limit for payment of claims for insurers who have elected to utilize a

thirty day payment standard for compliance until further notice. (See LSA R.S. 22:250.34 and the penalty provisions of LSA R.S. 22:250.32C and 22:250.33.C.)

- (4) Once a health insurance issuer receives the premium payment from the insured, all pending claims 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 of the time limit for the payment of electronic and non-electronic claims will remain in effect until the present State of Emergency, or any subsequent State of Emergency, related to Hurricane Katrina or its aftermath has been lifted by Governor Kathleen Babineaux Blanco.
  - (a) Accordingly, pursuant to LSA R.S. 22:250.32, the forty-five (45) day time limit for payment for non-electronic claims and the penalty provisions of LSA R.S. 22:250.32.C shall be reinstated upon the payment of the premium by the insured.
  - (b) Accordingly, pursuant to LSA R.S. 22:250.33, the twenty-five (25) day time limit for payment of claims for electronic claims and the penalty provisions LSA R.S. 22:250.33.C shall be reinstated upon the payment of the premium by the insured.
  - (c) Accordingly, pursuant to LSA R.S. 22:250.34, the thirty (30) day time limit for payment for non-electronic claims and the penalty provisions of LSA R.S. 22:250.32.C and 22:250.33.C shall be reinstated upon the payment of the premium by the insured.

B. Pharmacy Care or Services – LSA R.S. 22:250:53 through 57.

- (1) The Commissioner hereby suspends the forty-five (45) day time limit for payment of pharmaceutical claims for non-electronic claims submission until further notice. See LSA R.S. 22:250.53 and the penalty provisions of LSA R.S. 22:250.53.C.
- (2) The Commissioner hereby suspends the fifteen (15) day time limit for payment of pharmaceutical claims for electronic claims submission until further notice. Furthermore, this suspension is applicable to Act 209 of the 2005 Regular Legislative Session. See LSA R.S. 22:250.54 and the penalty provisions of LSA R.S. 22:250.54.C.

- (3) The Commissioner hereby suspends the thirty (30) day time limit for payment of pharmaceutical claims for insurers who have elected to utilize a thirty day payment standard for compliance until further notice. See LSA R.S. 22:250.56 and the penalty provisions of LSA R.S. 22:250.53.C and 22:250.54.C.
- (4) Once a health insurance issuer receives the premium payment from the insured, all pending pharmacy claims 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 of the time limit for the payment of electronic and non-electronic claims will automatically be lifted and reinstated.
  - (a) Accordingly, pursuant to LSA R.S. 22:250.53, the forty-five (45) day time limit for payment for non-electronic claims and the penalty provisions of LSA R.S. 22:250.53.C shall be reinstated upon the payment of the premium by the insured.
  - (b) Accordingly, pursuant to LSA R.S. 22:250.54, the twenty-five (25) day time limit for payment of claims for electronic claims and the penalty provisions LSA R.S. 22:250.54.C shall be reinstated upon the payment of the premium by the insured.
  - (c) Accordingly, pursuant to LSA R.S. 22:250.56, the thirty (30) day time limit for payment for non-electronic claims and the penalty provisions of LSA R.S. 22:250.53.C and 22:250.54.C shall be reinstated upon the payment of the premium by the insured.
- (5) The Commissioner hereby suspends the right of health insurance issuers and HMOs from denying, pending or rejecting a claim from any pharmacists or pharmacy for a thirty (30) day supply of prescription medications, regardless of the date of the last refill. In furtherance of this suspension, health insurance issuers and HMOs shall pay all such claims for reimbursement submitted by a pharmacist or pharmacy.
- (6) The Commissioner hereby suspends any and all precertification or step-therapy procedures in order to fill a prescription. This authorization shall be for a thirty (30) day supply.
- (7) 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 should be mailed to an alternate address if requested by the insured.

- (8) All health insurance issuers, HMOs, PPOs and MCOs shall waive any and all restrictions relative to out-of-network access to pharmacy services or prescriptions.

17.10 In the event health insurance issuers, HMOs, PPOs and MCOs pend a claim(s), as allowed pursuant Emergency Rule 17, and is subsequently entitled to cancel or terminate a policy for non-payment of premium, health insurance issuers, HMOs, PPOs and MCOs shall pay those claims to the health care providers or health care professionals at the following rate or allowance:

- A. For contracted health care providers or health care professionals, fifty percent (50%) of the contracted reimbursement rate.
- B. For non-contracted health care providers or health care professionals, fifty percent (50%) of the non-participating rate or allowance.
- C. With regard to claims submitted pursuant to Section 17.10, when the underlying policy is cancelled or terminated for non-payment of premium, health insurance issuers, HMOs, PPOs and MCOs shall be allowed to conduct medical necessity reviews on claims related to non-elective services. Non-elective services are those services that are emergent, urgent, or necessary in order to not place the health of the insured at risk.
- D. With regard to any and all claims paid by health insurance issuers, HMOs, PPOs and MCOs pursuant to the requirements of Section 17.10, the provisions of LSA R.S. 22:250.38 and 22:250.59 are hereby suspended and recoupment is prohibited.

17.11 The Commissioner hereby suspends physician credentialing pursuant to LSA R.S. 22:11.1 such that there are no credentialing requirements with regard to any and all licensed physicians who provide medical services to insureds from the parishes referenced in Section 17.1.

17.12 Payment of Medicare Supplement Premiums- LSA. R.S. 22:224.K

- A. The Commissioner hereby suspends the requirements that the payment of Medicare supplement premiums can only be made pursuant to LSA R.S. 22:224.K.
- B. In furtherance of this suspension, any policies that contain restrictive language relative to modes of premium payment shall allow for the acceptance of other payment methods during this State of Emergency or

any subsequent State of Emergency including, but not be limited to, credit card, debit card, FEMA voucher, federal assistance, state assistance, or any and all other related or similar payment methods.

- 17.13 The Commissioner hereby suspends any and all cancellations occasioned by the inability of an insured, or his representative, from complying with any policy provisions. In furtherance of this suspension, a cancellation or nonrenewal shall not occur prior to the expiration of the State of Emergency or any subsequent State of Emergency related to Hurricane Katrina, unless upon the documented written request or written concurrence of the insured.
- 17.14 Emergency Rule 17 shall not relieve an insured who has a claim caused by Hurricane Katrina, or its aftermath, from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to such claim.
- 17.15 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 herein.
- 17.16 The Commissioner hereby suspends LSA R.S. 22:215.13. 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 Governor lifts the State of Emergency presently in effect, or any renewal thereof. Section 17.16 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 at any time between August 26, 2005 and the lifting of the State of Emergency by the Governor.
- 17.17 Notwithstanding any other provision contained herein, the Commissioner may exempt any insurer from compliance with Emergency Rule 17 upon written request by the health insurance issuer if the Commissioner determines that compliance with Emergency Rule 17 may be reasonably expected to result in said insurer being subject to undue hardship, impairment or insolvency.
- 17.18 The provisions of Emergency Rule 17 shall not apply to any new policies of insurance for the types of health insurance enumerated in Emergency Rule 17 if said new health insurance policy was issued on or after 12:01 a.m. August 26, 2005.
- 17.19 The provisions of Emergency Rule 17 shall not prevent health insurance issuers or HMOs from cancelling or terminating an insured based solely on fraud or material misrepresentation on the part of the insured.

- 17.20 The provisions of Emergency Rule 17 shall be liberally construed to effectuate the intent and purpose expressed herein and to afford maximum consumer protection for the insureds of Louisiana.
- 17.21 The Commissioner retains the sole authority to enforce violations of Emergency Rule 17. Accordingly, any insurer, HMOs, PPOs and MCOs, or other entity doing business in Louisiana and/or regulated by the Commissioner who violates any provision of Emergency Rule 17 shall be subject to prosecution by the Commissioner under any applicable provisions of the Louisiana Insurance Code, including the provisions of the LSA R.S. 22:250.41, et seq., 22:1211, et seq., and specifically including, but not limited to, LSA R.S. 22:1214(7), (12) and (14). Additionally, the penalty provisions set forth in LSA R.S. 22:1217 shall be applicable. These provisions include penalties of \$1,000.00 for each separate act, or \$25,000.00 for each separate act if the violator knew or reasonably should have known he was in violation of Emergency Rule 17, as well as a cease and desist order and the imposition of other penalties and suspension or revocation of the license. Additionally, LSA R.S. 22:1220, which, among other things, imposes the obligation of good faith and fair dealing shall also be subject to the sole enforcement authority of the Commissioner. This law sets forth penalties and exemplary damages which shall be enforceable by the Commissioner for any violation of Emergency Rule 17. Finally, the Commissioner reserves the sole right to make the determination regarding whether any violator shall be subject to any and all other applicable civil and criminal sanctions for violations of Emergency Rule 17.
- 17.22 The Commissioner reserves the right to amend, modify, alter or rescind all or any portion of Emergency Rule 17.
- 17.23 If any section or provision of Emergency Rule that is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 17, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.
- 17.24 Emergency Rule 17 shall become effective at 12:01 a.m. on August 26, 2005 and shall continue in full force and effect for the duration of the present State of Emergency proclaimed by Governor Kathleen Babineaux Blanco, or any subsequent State of Emergency, with regard to Hurricane Katrina or its aftermath.

Baton Rouge, Louisiana, this 20th day of September, 2005.

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**J. Robert Wooley**  
**Commissioner of Insurance**