On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation’s healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the state of Louisiana with a growing number of residents testing positive for the disease. There is reason to believe that COVID-19 may spread among the population by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens.

Emergency Rule 36 is issued to address the statewide public health emergency declared to exist in the state of Louisiana as the result of the imminent threat posed to Louisiana citizens by COVID-19, creating emergency conditions threatening the lives and health of the citizens of this state. Emergency Rule 36 is issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2020-29 issued on March 11, 2020, by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020, through April 9, 2020, unless terminated sooner and Proclamation No. JBE 2020-29 issued on March 14, 2020, transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon (commissioner).

Accordingly, Emergency Rule 36 shall apply to all health maintenance organizations (HMOs), 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”).

A. The benefits, entitlements and protections of Emergency Rule 36 shall be applicable to insureds, policyholders, members, subscribers, enrollees and certificate holders who, as of 12:01 a.m. on March 17, 2020 have a policy, insurance contract or certificate of coverage issued by a health maintenance organization or for any of the types of insurance enumerated in R. S. 22:47(2)(a) and reside in the state of Louisiana. Insureds shall include, but not be limited to, any and all policyholders, members, subscribers, enrollees and certificate holders.

A. All health insurance issuers are directed to verify that their provider networks are adequate to handle a potential increase and the need for healthcare services for COVID-19 cases diagnosed in Louisiana, including by offering access to out-of-network services where appropriate.
§3111. Notice to Contracted Providers of Waiver
A. All health insurance issuers shall provide notice to contracted providers that they are waiving the cost-sharing and prior authorization requirements, or any restrictions, and ensure that information regarding the waivers is provided to customer service centers, nurse advice lines, and others so that proper information is provided to insured citizens.

§3113. 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 and all precertification or step-therapy procedures in order to fill a prescription. This authorization shall be for a 30-day supply.
C. 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.
D. All health insurance issuers shall waive any and all restrictions relative to out-of-network access to pharmacy services or prescriptions.

§3115. Timely Utilization Review
A. Timely decision making is essential to responding appropriately to COVID-19, and is particularly important to utilization review. Health insurance issuers are reminded to comply with the utilization review decision timelines set forth in R.S. 22:2401 et seq. and 22:2411 et seq.

§3117. Intent and Purpose
A. The provisions of Emergency Rule 36 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of Louisiana.

§3121. Sanctions for Violations
A. The commissioner retains the authority to enforce violations of Emergency Rule 36. Accordingly, any health insurance issuers enumerated in Emergency Rule 36 or other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of Emergency Rule 36 shall be subject to regulatory action by the commissioner under any applicable provisions of the Louisiana Insurance Code.

James J. Donelon
Commissioner
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