

DECLARATION OF EMERGENCY
Department of Insurance
Office of the Commissioner
Emergency Rule 26 – Amended - 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 Insureds in Louisiana Caused by Hurricane Isaac
(LAC 37:XI.Chapter 47)

Emergency Rule 26 – Amended is issued to address concerns resulting from Hurricane Isaac which made landfall in Louisiana on August 28, 2012. Emergency Rule 26 – Amended 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. 92 BJ 2012 issued on August 26, 2012, by Governor Bobby Jindal declaring a State of Emergency extending from August 26, 2012, through September 25, 2012, unless terminated sooner; the Federal Emergency Management Agency's Notice of a Major Disaster Declaration FEMA-3347-EM and FEMA-4080-DR; Executive Order No. BJ 2012-16 issued on August 29, 2012, by Governor Bobby Jindal transferring authority over any and all insurance matters to Commissioner of Insurance James J. Donelon (commissioner); R.S. 29:724; R.S. 29:766; R.S. 22:2; R.S. 22:11; R.S. 49:950 et seq.

On August 26, 2012, Governor Bobby Jindal declared a State of Emergency within the state of Louisiana in response to the expected landfall of Tropical Storm Isaac which subsequently became Hurricane Isaac. As a result of the hurricane's landfall, Hurricane Isaac caused extensive power outages and flooding that destroyed many homes and impacted the livelihood of the citizens of Louisiana. This State of Emergency extends from August 26, 2012, through September 25, 2012, unless terminated sooner.

Since the issuance of Proclamation No. 92 BJ 2012, hundreds of thousands of Louisiana citizens have suffered damage due to Hurricane Isaac. In some places it could be several weeks before electricity is restored. The homes of many Louisiana citizens were destroyed, precluding habitation. The damage caused by Hurricane Isaac has resulted in the closing of businesses and financial institutions, the temporary suspension of mail service, the temporary displacement of persons from their homes, loss of personal belongings and temporary loss of employment. This disruption has affected the ability of these citizens to timely pay their insurance premiums, access their insurance policies, and communicate with insurance agents and their respective insurance companies for insurance related matters. Hurricane Isaac has created a mass disruption to the normalcy previously enjoyed by Louisianans 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 insurance subject to the Louisiana Insurance Code.

Accordingly, Emergency Rule 26 - Amended is issued and shall apply to all insurers, health maintenance organizations (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 26 - Amended, regarding any and all types of insurance, including, but not limited to, flood insurance (not issued pursuant to the NFIP), homeowners insurance, life insurance, group and individual 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 (not issued pursuant to a USDA program), 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 26 - Amended is applicable to insureds as defined in §4701 and shall include, but not be limited to, any and all policyholders, members, subscribers, enrollees and certificate holders.

In the ordinary course of business, insurers, HMOs, group and individual 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 send notices to insureds, many of which are required to do so by statute, giving the insured certain limited periods of time within which to pay premiums or otherwise respond. Hurricane Isaac and its aftermath have produced a disruption in the notification process because of the inability of insureds to receive mail due to mandatory and/or voluntary evacuations and/or the destruction or damage of their homes. Thus, many insureds are currently unable to timely act or respond to such notices or to timely pay insurance premiums and need additional time within which to act or respond.

Some insurers, HMOs, group and individual 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 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, 2012, 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 26 - Amended provides emergency relief to the insureds of Louisiana impacted by Hurricane Isaac 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, 2012.

Title 37
INSURANCE
Part XI. Rules

Chapter 47. Emergency Rule 26 – Amended—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 Insureds in Louisiana Caused by Hurricane Isaac

§4701. Benefits, Entitlements, and Protections

A. The benefits, entitlements and protections of Emergency Rule 26 shall be applicable to insureds who, as of 12:01 a.m. on August 26, 2012, had a policy, insurance contract or certificate of coverage for any of the types of insurance enumerated in §4703 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.

B. Effective 12:01 a.m. September 8, 2012, the benefits, entitlements and protections of Emergency Rule 26 shall only be applicable to insureds who, as of 12:01 a.m. on August 26, 2012, had a policy, insurance contract or certificate of coverage for any of the types of insurance enumerated in §4703 and reside in one of the following parishes: Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana. In order to obtain the benefits, entitlements and protections of Emergency Rule 26, an insured who resides in a parish enumerated in §4701.B shall provide written notice to their insurer that said insured was impacted by Hurricane Isaac in a manner including, but not limited to, evacuation, displacement, temporary relocation, or loss of power. Such written notice shall be submitted to the insurer, HMO, health and accident insurer, property and casualty insurer, surplus lines insurer and any and all other entities doing business in Louisiana and/or regulated by the commissioner before 12:01 a.m. on September 25, 2012.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:B.

§4703. Applicability

A. Emergency Rule 26 shall apply to every insurer, health insurance issuer, HMO, PPO, MCO, PBM or TPA acting on behalf of an insurer, health insurance issuer, health maintenance organization, preferred provider organization or managed care organization with regard to any and all types of insurance, including, but not limited to, flood insurance (not issued pursuant to the NFIP), homeowners insurance, life insurance, health insurance, group and individual 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 (not issued pursuant to a USDA program), marine and transportation insurance, credit life, medical supplement insurance, credit property and casualty insurance, annuity insurance, professional and medical malpractice liability insurance, property and casualty insurance, all surplus lines insurance, self insurance funds, disability insurance, reciprocal insurance, long term care insurance, short term health insurance, stop loss insurance, excess loss insurance, Medicare supplement insurance, Medicare select insurance, preferred provider organizations (PPOs), health maintenance organizations (HMOs), managed care organizations (MCOs), and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4705. Suspension of Statutory or Regulatory Provisions

A. Any statutory or regulatory provision, or any policy provision contained in any policy of insurance set forth in §4703 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 §4703, which act or transmittal was to have been performed on or after 12:01 a.m. on August 26, 2012. The time limit for any such performance, act or transmittal shall be suspended until 12:01 a.m. September 25, 2012, or thereafter.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4707. Suspension of Notice of Cancellation, Notice of Nonrenewal, Nonreinstatement

A. Emergency Rule 26 hereby suspends any notice of cancellation, notice of nonrenewal, nonreinstatement or any other notice related to any of the types of insurance enumerated in §4703 that was in force and effect as of 12:01 a.m. on August 26, 2012. Accordingly, any such notices that had not resulted in the actual cancellation, nonrenewal or nonreinstatement of the types of insurance enumerated in §4703 prior to 12:01 a.m. on August 26, 2012, shall be null and void. Furthermore, any such notice shall be reissued de novo to the insured in accordance with existing statutory requirements and any such notice shall not be issued to the insured until 12:01 a.m. September 25, 2012, or thereafter.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4709. Suspension of Louisiana Insurance Code Provisions

A. 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, 2012, and shall remain suspended until 12:01 a.m. September 25, 2012. The right of any insurer to utilize the services of a premium finance company to issue any such notice is suspended during the pendency of Emergency Rule 26.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4711. Suspension of Cancellation, Nonrenewal or Nonreinstatement

A. Except as provided for in §4747, the cancellation, nonrenewal or nonreinstatement of any and all insurance enumerated in §4703 that had not become effective before 12:01 a.m. on August 26, 2012, is hereby suspended and shall be deferred until 12:01 a.m. September 25, 2012.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4713. Act of God; Cancellation and Nonrenewal for Homeowners Insurance

A. As set forth in R.S. 22:1336, no policy shall be cancelled or nonrenewed because of a claim resulting from Hurricane Isaac or its aftermath.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4715. Suspension of Statutory or Regulatory Provisions

A. All health insurance issuers, HMO's, PPOs, MCOs, PBMs or TPAs, and any other health insurance entities doing business in Louisiana or regulated by the commissioner with insureds in the state of Louisiana shall waive any and all restrictions relative to out-of-network access to all covered health care services. To avoid delays in accessing care, all health insurance issuers, HMOs, PPOs, MCOs, PBMs or TPAs, and any other health insurance entities doing business in Louisiana or regulated by the commissioner shall waive requirements for medical certifications or pre-certifications, referrals, medical necessity reviews and notification of hospital admissions. The right of all health insurance issuers, HMOs, PPOs, MCOs, PBMs or TPAs, and any other health insurance entities doing business in Louisiana or regulated by the commissioner 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 all health insurance issuers, HMOs, PPOs, MCOs, PBMs or TPAs, and any other health insurance entities doing business in Louisiana or regulated by the commissioner

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, or necessary in order to not place the health of the insured at risk and are not provided in an emergency department of a hospital.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4717. Non-elective Health Care Services

A. In the event health insurance issuers, HMOs, PPOs, MCOs, PBMs or TPAs and any other health insurance entities doing business in Louisiana or regulated by the commissioner pend a non-elective health care services claim(s), as allowed pursuant to Emergency Rule 26, and is subsequently entitled to cancel or terminate a policy for non-payment of a premium or rescission pursuant to R.S. 22:1068.B(2) and R.S. 22:1074B.(2), health insurance issuers, HMOs, PPOs, MCOs, PBMs or TPAs and any other health insurance entities doing business in Louisiana or regulated by the commissioner shall pay those non-elective claims to the health care professionals at the following rate or allowance.

1. For contracted health care providers or health care professionals, 50 percent of the contracted reimbursement rate.

2. For non-contracted health care providers or health care professionals, 50 percent of the non-participating rate or allowance.

3. With regard to claims submitted pursuant to §4717, when the underlying policy is cancelled or terminated for non-payment of premium or rescission pursuant to R.S. 22:1068.B.(2) and R.S. 22:1074B.(2), health insurance issuers, HMOs, PPOs, MCOs, PBMs or TPAs and any other health insurance entities doing business in Louisiana or regulated by the commissioner shall be allowed to conduct medical necessity reviews on claims related to non-elective services. Non-elective services are those services that are, urgent or necessary in order to not place the health of the insured at risk and are not provided in an emergency department of a hospital.

4. With regard to any and all non-elective claims paid by health insurance issuers, HMOs, PPOs, MCOs, PBMs or TPAs and any other health insurance entities doing business in Louisiana or regulated by the commissioner pursuant to the requirements of §4717, the provisions of R.S. 22:1838 or R.S. 22:1859 are hereby suspended and recoupment is prohibited.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4719. Emergency Health Care Services

A. R.S. 22:1821 et seq., remains in effect regarding all health insurance issuers, HMOs, PPOs, MCOs, PBMs or TPAs, and any other health insurance entities doing business in Louisiana or regulated by the commissioner, and any and all other health insurance regulated by the Louisiana Insurance Code. Emergency services

claims shall be covered as if in-network and health care professionals and health care providers shall be reimbursed in accordance with the Patient Protection and Affordable Care Act specifically, section 2719A and 75 FR 37188 and health care professionals and health care providers shall be prohibited from balance billing the insured, policyholder, member, subscriber, enrollee and certificate holder.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4721. Compliance with Health Care Consumer Billing and Protection Act

A. All health care professionals and health care providers rendering services to an insured in the state of Louisiana shall comply with the Health Care Consumer Billing and Protection Act pursuant to R.S. 22:1871, et seq. Health care providers and/or health care professionals who file a claim and/or accept payment for non-elective health care services and emergency health care services shall have legally released the insureds from any further financial obligation for the health care services rendered. Health care providers and/or health care professionals shall be deemed to have released, discharged and waived any and all rights to take any legal action or redress, either in person or via transfer, assignment or subrogation, to collect any unpaid amounts from insureds and/or health insurance issuers, HMOs, PPOs, MCOs, PBMs or TPAs or any or all other health insurance entities doing business in Louisiana or regulated by the commissioner. Any violation by health care providers and/or health care professionals of this provision may be deemed an unfair trade practice under R.S. 22:1871 et seq. and may be referred to the Louisiana Attorney General. The Louisiana Attorney General may pursue remedies as provided for in R.S. 51:1401 et seq.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4723. Assuring Portability—Compliance

A. All health insurance issuers and HMOs shall maintain compliance with R.S. 22:1061, et seq., titled Assuring Portability, Availability and Renewability of Health Insurance Coverage, and any applicable federal law.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4725. Assuring Portability—Suspension

A. All health insurance issuers and HMOs shall maintain compliance with R.S. 22:1061, et seq., titled Assuring Portability, Availability and Renewability of Health Insurance Coverage and applicable federal law, except for the time periods enumerated in §4725 shall be suspended during the pendency of Emergency Rule 26. All such

notices required in §4725 must be reissued de novo on or after 12:01 a.m. on September 25, 2012.

B. The HIPAA portability provisions generally provide that a group health plan or group health insurance issuer may disregard a period of creditable coverage if there is a subsequent 63-day break in coverage.

C. The HIPAA special enrollment provisions generally provide that employees must request enrollment within 30 days of a special enrollment trigger (including loss of eligibility of coverage for loss of employer contributions) to be eligible for special enrollment in accordance with the Patient Protection and Affordable Care Act or applicable federal law.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4727. Suspension of Cancellation, Nonrenewal, and Nonreinstatement Provisions

A. All cancellation, termination, nonrenewal and nonreinstatement provisions in Title 22, including, but not limited to, R.S. 22:1068, 22:1074, 22:978, 22: 977 and 22:272 are hereby suspended.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4729. Denying, Pending or Rejecting a Claim

A. The commissioner hereby suspends the right of 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, HMOs, PPOs, MCOs, PBMs or TPAs or any or all other health insurance entities doing business in Louisiana or regulated by the commissioner shall pay all such claims for reimbursement submitted by a pharmacist or pharmacy.

1. 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.

2. 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.

3. All health insurance issuers, HMOs, PPOs, MCOs, PBMs or TPAs or any or all other health insurance entities doing business in Louisiana or regulated by the commissioner shall waive any and all restrictions relative to out-of-network access to pharmacy services or prescriptions.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4731. Cancellation or Termination of Policy for Non-Payment

A. Health insurance issuers, HMOs, PPOs, MCOs, PBMs or TPAs or any or all other health insurance entities doing business in Louisiana or regulated by the commissioner may pend a claim(s), as required pursuant Emergency Rule 26, and may subsequently cancel or terminate a policy only for non-payment of premium in accordance with the procedure set forth in Emergency Rule 26 or for rescission in accordance with R.S. 1068 B.(2) and R.S. 1074B. (2).

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4733. Discount Billing

A. Those amounts representing coinsurance, copayments, deductibles, noncovered health care services or other amounts identified by the health insurance issuer, HMO, PPO, MCO, PBMs or TPA or any or all other health insurance entity doing business in Louisiana or regulated by the commissioner on an explanation of benefits as the amount for which the insured is liable shall not be considered discount billing or dual billing pursuant R.S. 22:1871 et seq., and remains the obligation of the insured or as provided for pursuant to the Patient Protection and Affordable Care Act or other applicable federal law.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4735. Payment of Medicare Supplement Premiums—R.S. 22:1111(K)

A. The commissioner hereby suspends the requirements that the payment of Medicare supplement premiums can only be made pursuant to R.S. 22:1111(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 until 12:01 a.m. on September 25, 2012, including, but not limited to, credit card, debit card, FEMA voucher, federal assistance, state assistance, or any and all other related or similar payment methods.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4737. Option for Continuation of Coverage

A. The commissioner hereby suspends R.S. 22:1046. In furtherance thereof, a health insurance issuer, HMO, PPO, MCO, or any or all other health insurance entity doing business in Louisiana or regulated by the commissioner 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 12:01 a.m. September 25, 2012, or any renewal thereafter. §4737 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 12:01 a.m. August 26, 2012, and 12:01 a.m. September 25, 2012.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4739. Notification

A. If the applicable premium for the policy of health insurance is paid at any time prior to the termination of Emergency Rule 26 or applicable grace period, whichever occurs later, the HMO, PPO, MCO, TPA or any or all other health insurance entity shall send to any and all health care providers and/or health care professionals who have filed a claim with respect to insureds a notice in the form of an Explanation of Benefits, Explanation of Payments, Remittance Advice, or similar communication.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4741. Policy Copy Request

A. If an insured requests from his insurer a copy of his policy, the insurer shall provide a copy of the requested policy to the insured without any charge or fee.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4743. New Policies

A. The provisions of Emergency Rule 26 shall not apply to any new policy of insurance for the types of insurance enumerated in §4703 if said insurance policy was issued on or after 12:01 a.m. August 26, 2012.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4745. Premium Offset

A. All insurers regulated by Emergency Rule 26, 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 insurance policy. §4745 is not applicable to health insurance issuers, HMOs, PPOs,

MCOs, third party administrators (TPAs) or any other health insurance entities doing business in Louisiana and/or regulated by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4747. Policy Cancellation upon Request

A. Nothing shall prevent an insurer from cancelling a policy upon the documented written request or written concurrence of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4749. Insured's Obligation to Pay Premiums

A. Unless otherwise cancelled pursuant to the provisions of §4747 herein, nothing in Emergency Rule 26 shall be construed to exempt or excuse an insured from the obligation to pay the premiums otherwise due for actual insurance coverage provided.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4751. Cancellation for Fraud or Material Representation

A. Emergency Rule 26 shall not prevent an insurer from canceling or terminating a policy of insurance for fraud or material misrepresentation on the part of the insured.

B. Emergency Rule 26 shall not prevent an insurer from rescission of a health policy in accordance with R.S. 1068 B.(2) and R.S. 1074B. (2).

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4753. Insured's Obligation to Provide Information and Cooperation

A. Emergency Rule 26 shall not relieve an insured who has a claim caused by Hurricane Isaac or its aftermath from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to the claim.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4755. Interest, Penalties, Fees and Other Charges

A. The right of an insurer to impose or levy any additional interest, penalty, fee or other charge is hereby suspended until 12:01 a.m. September 25, 2012.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4757. Petition for Exemption

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 26 upon the insurer filing with the commissioner a written "Petition for Exemption from Emergency Rule 26" which unequivocally demonstrates that compliance with Emergency Rule 26 will result in said insurer being subject to undue hardship, impairment, or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4759. Intent and Purpose

A. The provisions of Emergency Rule 26 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4761. Sanctions for Violations

A. The commissioner retains the authority to enforce violations of Emergency Rule 26. Accordingly, any insurer enumerated in Emergency Rule 26 or other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of Emergency Rule 26 shall be subject to prosecution by the commissioner under any applicable provisions of the Louisiana Insurance Code, including the provisions of the R.S. 22:1871, et seq., R.S. 22:1961, et seq., and specifically including, but not limited to, R.S. 22:1964(7), (12) and (14). Additionally, the penalty provisions set forth in LSA-R.S. 22:1969 shall be applicable. These provisions include penalties of \$1,000 for each separate act, or \$25,000 for each separate act if the violator knew or reasonably should have known he was in violation of Emergency Rule 26, as well as a cease and desist order and the imposition of other penalties and suspension or revocation of the license. Additionally, R.S. 22:1973, which, among other things, imposes the obligation of good faith and fair dealing shall also be subject to the 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 26. Finally, the commissioner may impose any other applicable regulatory sanctions for violations of Emergency Rule 26.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4763. Authority

A. The commissioner reserves the right to amend, modify, alter or rescind all or any portions of Emergency Rule 26. Additionally, the commissioner reserves the right to extend Emergency Rule 26.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4765. Severability Clause

A. If any section or provision of Emergency Rule 26 is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 26, 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.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.


HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:

§4767. Effective Date

A. Emergency Rule 26 shall become effective at 12:01 a.m. on August 26, 2012 and shall continue in full force and effect until 12:01 a.m. September 25, 2012.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2012-16.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:


James J. Donelon
Commissioner of Insurance