

# ACLI Administrative Material Service

## WEST VIRGINIA Emergency Order 16-EO-05

### Proclamation Of State Emergency By Governor Earl Ray Tomblin

Dated June 28, 2016

**Summary:** This emergency order notes that Governor Tomblin declared a State of Emergency in West Virginia due to severe storms that caused considerable damage. It establishes requirements for the treatment of insurance policyholders residing in the 44 counties affected by the storms and allows for a 30-day extension (from June 23, 2016 to July 23, 2016) of any actions having to do with policy, notice, statutory or regulatory provisions that impose time limits.

**Keywords:** insurance commissioner  
market conduct

This material is relevant to the following Compliance Service(s): Market Conduct

**Source:** [West Virginia Office of the Insurance Commissioner website](#)

**ACLI Doc ID:** AM16-WV01

Text of emergency order follows:

**STATE OF WEST VIRGINIA  
OFFICES OF THE INSURANCE COMMISSIONER  
MICHAEL D. RILEY, COMMISSIONER**

**16-EO-05**

**IN THE MATTER OF: Proclamation of State of Emergency by Governor Earl Ray Tomblin, dated June 23, 2016**

**EMERGENCY ORDER**

**NOW COMES MICHAEL D. RILEY**, Insurance Commissioner of the State of West Virginia (hereinafter “Insurance Commissioner”), by virtue of the authority vested in him pursuant to West Virginia Code § 33-2-1 *et seq.*, and W.Va. Code §33-11-1 *et seq.*, who does **FIND** and **DECLARE** as follows:

**WHEREAS**, beginning on June 23, 2016 severe storms caused heavy rainfall, flooding, rock slides, mudslides and road and stream blockages resulting in a devastating weather event that caused considerable damage to private and public property in many counties within the State of West Virginia, including Barbour, Boone, Braxton, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Greenbrier, Harrison, Jackson, Kanawha, Lewis, Lincoln, Logan, Marion, Mason, McDowell, Mercer, Mingo, Monongalia, Monroe, Nicholas, Pendleton, Pleasants, Pocahontas, Preston, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Wayne, Webster, Wetzel, Wirt, Wood, and Wyoming Counties;

**WHEREAS**, on June 23, 2016, Governor Earl Ray Tomblin entered a Proclamation declaring a State of Emergency for forty-four counties in the State of West Virginia, including Barbour, Boone, Braxton, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Greenbrier, Harrison, Jackson, Kanawha, Lewis, Lincoln, Logan, Marion, Mason, McDowell, Mercer, Mingo, Monongalia, Monroe, Nicholas, Pendleton, Pleasants, Pocahontas, Preston, Putnam,

Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Wayne, Webster, Wetzel, Wirt, Wood, and Wyoming Counties;

**WHEREAS**, the Insurance Commissioner has determined that an insurance emergency exists in the counties noted in the Governor's Proclamation as issued and as thereafter amended;

**WHEREAS**, the Insurance Commissioner has determined that an Emergency Order is needed to protect the interests of West Virginia insurance consumers who reside in the counties noted in the Governor's Proclamation, as issued and as thereafter amended, and who suffered particular devastation as a result of the weather event;

### **ORDER**

It is therefore **ORDERED** as follows:

1. That insurers, producers and all other insurance related entities subject to regulation in the State of West Virginia should take into consideration the difficulties related to this devastating weather event that citizens of this state have suffered and continue to suffer and should take such consideration into account when dealing with matters relating to collection of premium, cancellation, nonrenewal, documentation and other requirements or policy provisions, including, but not limited to notifications of hospital admissions, due dates relating to claims, premium payments, optional service fees, prior authorization requirements and limitations on prescription refills.
2. That this Emergency Order shall apply to all insurers, producers, persons and entities subject to regulation under the State of West Virginia insurance statutes and rules.
3. That this Emergency Order shall apply to all insureds residing in the counties noted in the Governor's Proclamation, as issued and as thereafter amended, and who suffered particular devastation as a result of the weather event and, due to the devastation suffered, may

not be able to receive mail due to evacuations or destruction or damage of homes or property, may not be able to timely act or respond to notices or correspondence or may not be able to timely pay insurance premiums and need additional time to act or respond.

4. That in the case of any policy, notice, statutory, or regulatory provision which imposes a time limit upon an insured to perform any act or transmit information or funds, including the payment of premium, for which such act or transmittal was to have been performed on or after 12:01 a.m. on June 23, 2016 but before July 23, 2016, shall be extended for a period of thirty (30) days from the date upon which such act or transmittal was otherwise due.

5. That any insured requesting a copy of his or her insurance policy shall be provided with a full and complete copy of the policy within fifteen (15) calendar days of the request.

6. That no policy shall be cancelled or non-renewed solely on the basis of a claim resulting from this weather event or its aftermath.

7. That any insurance policy or contract, including an HMO, that provides coverage for prescription drugs must allow one early refill of a prescription if there are authorized refills remaining or allow one replacement prescription for a prescription that was recently filled for insureds who reside in counties listed in the Governor's Proclamation as presently constituted or hereafter amended, and who has lost his or her prescription medication due to the weather event. This requirement is valid for requests made on or before July 23, 2016.

8. That nothing herein shall be construed to exempt or excuse an insured from the obligation to pay the premiums otherwise due for actual insurance coverage provided.

9. That nothing herein shall relieve an insured who has a claim caused by this weather event or its aftermath from compliance with the insured's obligation to provide information and cooperate in the claim adjustment or investigative process related to the claim.

10. That the Insurance Commissioner may consider any violation of this Emergency Order to be an unfair method of competition or unfair or deceptive act or practice prohibited in this state pursuant to W.Va. Code §§ 33-11-3 and 33-11-7 and the Insurance Commissioner may thereafter, in his discretion, initiate any investigation and/or regulatory action permitted by the West Virginia insurance statutes and rules, including but not limited to, the issuance of a cease and desist order and, after notice and hearing, a monetary fine or penalty, or revocation or suspension of the insurer's certificate of authority or license to transact the business of insurance in this state.

11. That the Insurance Commissioner reserves the right to extend, amend, modify, alter or rescind all or any portion of this Emergency Order via subsequent order.

12. That if any section or provision in this Emergency Order is deemed unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity determination shall not affect the remainder of this Emergency Order that can be given effect and is severable.

13. That the provisions in this Emergency Order shall be effective immediately and shall continue until July 23, 2016 unless extended or terminated by the Insurance Commissioner.

ENTERED this 28<sup>th</sup> day of June, 2016.

  
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**Michael D. Riley, Insurance Commissioner**  
**State of West Virginia**