

BEFORE THE NEW MEXICO SUPERINTENDENT OF INSURANCE

IN THE MATTER OF AN	)	
EMERGENCY ORDER TO PROTECT	)	Docket No. 2024-0051
ACCESS TO INSURANCE AND THE	)	
STABILITY OF INSURANCE	)	
MARKETS IN FIRE EMERGENCIES	)	
_____	)	

AMENDED EMERGENCY ORDER

THIS MATTER having come before the New Mexico Superintendent of Insurance (“the Superintendent”) upon executive order issued by the Honorable Michelle Lujan Grisham, Governor of the State of New Mexico, addressing fire emergencies in various parts of the State of New Mexico under the Constitution and laws of New Mexico, including the All Hazard Emergency Management Act, NMSA 1978, Sections 12-1-1 through 12-10-10 (1959, as amended through 2007).

THE SUPERINTENDENT FINDS AND CONCLUDES:

1. The Superintendent has jurisdiction over this matter pursuant to the New Mexico Insurance Code, NMSA 1978, Sections 59A-1-1 et seq. and specifically NMSA 1978, Section 59A-2- 8(A)(11) and (B) (2021);
2. The Governor of the State of New Mexico, the Honorable Michelle Lujan Grisham, has declared in Executive Order 2024-033, issued June 18, 2024, an emergency in Lincoln County and the Mescalero Apache Reservation, New Mexico due to the Salt Fire and South Fork Fire;
3. Upon an order by the Governor based upon the invocation of a state of emergency under the All Hazard Emergency Management Act, the Superintendent, pursuant to NMSA 1978, Section 59A-2-8(A)(11), may “take those actions necessary to ensure access to insurance and the stability of insurance markets during the emergency[,]” including issuing emergency orders to

address any or all of the following:

- (a) grace periods for payment of insurance premiums and performance of other duties by insureds;
- (b) refund of premiums;
- (c) waiver of cost sharing or deductibles;
- (d) temporary postponement of cancellations and nonrenewals;
- (e) reporting requirements for claims; and
- (f) suspension of compliance with a statute, rule or contract, if strict compliance would prevent, hinder or delay necessary action in response to the emergency;

4. The Governor's executive order details the damage to the areas involved in the wildfires, the destruction of homes and other structures, the impact to local infrastructure, the undue human and animal suffering, the threats to the health, safety, and welfare of citizens, the threats to the economic function of those counties, and in several counties, the evacuation of residents from their homes;

5. The Superintendent finds that the social and economic dislocation of residents, along with widespread and catastrophic property damage, caused by the fires that are the subject of the Governor's executive order, threaten access to insurance and the stability of insurance markets during the emergency;

6. The Superintendent further finds that residents who have left their homes, been ordered to evacuate their homes, and who are temporarily or permanently relocated to other areas, may have lost access to health care providers, their prescription medications, and other necessary health services;

7. The Superintendent additionally finds that residents who have left their homes, been ordered to evacuate their homes, and temporarily or permanently relocated to other areas may have lost access to records and documents that would assist them in filing claims for destroyed or damaged property; and

8. The Superintendent finds that it is necessary to issue this Emergency Order to

protect access to insurance and the stability of insurance markets during the emergencies declared in the Governor's executive orders.

IT IS THEREFORE ORDERED that:

A. With respect to policy holders whose residence is in the fire impacted areas identified in this order, insurers who write health insurance policies in New Mexico, for the next 120 days, shall:

1. Provide a grace period for payment of insurance premiums and offer policy holders a payment plan of no less than six (6) months if unable to pay the delinquency after the 120-day grace period;
2. Waive cost sharing and deductibles;
3. Postpone cancellations and non-renewals;
4. Waive early-refill time limits on active prescriptions;
5. Allow replacement for lost or damaged medication;
6. Permit one eyeglass or contact lens replacement and one hearing aid replacement during the pendency of this Order, waiving frequency limitations;
7. Permit one replacement for dentures or other prosthodontic devices during the pendency of this Order, waiving frequency limits;
8. Permit replacement of covered disposable medical supplies and durable medical equipment (DME) during the pendency of this Order, waiving frequency limits; and
9. Waive additional fees, charges, referrals, eligibility and prior authorization requirements for medically necessary services, whether emergent or not. This applies to benefits and services obtained from both in- and out-of-network providers.

B. Insurers who write health insurance policies in New Mexico shall extend medical providers' reporting requirements for claims submissions and for additional information relating to claims for at least 120 days;

C. Insurers who write health insurance policies in New Mexico shall fully reimburse out-of-network providers at the usual, customary, and reasonable rate or at an agreed upon rate outlined in §13.10.22.8(E) NMAC. Where such information is unavailable, insurers shall use the Surprise Billing rate outlined in NMSA 1978, Section 59A-57A-13;

D. With respect to policy holders whose residence or business is in the fire impacted counties identified in this order, insurers who write property or homeowners policies in New Mexico, for the next 120 days, shall:

1. Provide a grace period for payment of insurance premiums and offer policy holders a payment plan of no less than six (6) months if unable to pay the delinquency after the 120-day grace period;
2. Waive deductibles;
3. Postpone cancellations and non-renewals;
4. Waive deductibles for Additional Living Expenses (ALE) for any homeowners displaced and requiring ALE, and provide ALE for up to 12 months or until such time as the displace homeowner establishes a new residence, whichever occurs first;
5. If the ALE is covered in the policy, insurer must promptly issue advanced payment of \$5000.00 to the insured;
6. Extend reporting requirements for claims submissions or requests for additional information relating to claims;
7. Allow insureds to request a duplicate copy of their policy at no additional costs; and

8. Suspend late payment, reinstatement or insufficient funds fees along with any other fee, penalty, or interest charge resulting from the insured's temporary inability to submit premium payments;

E. With respect to policy holders whose residence or business is in the fire impacted counties identified in this order, that insurers who write automobile policies in New Mexico, for the next 120 days, shall:

1. Provide a grace period for payment of insurance premiums, and that policy holders be offered a payment plan of no less than six (6) months if unable to pay the delinquency after the 120-day grace period;

2. Waive deductibles;

3. Postpone cancellations and non-renewals;

4. Extend reporting requirements for claims submissions or requests for additional information relating to claims;

5. Extend reporting requirements for claims submissions or requests for additional information relating to claims;

6. Allow insureds to request a duplicate copy of their policy at no additional costs; and

7. Suspend late payment, reinstatement or insufficient funds fees along with any other fee, penalty, or interest charge resulting from the insured's temporary inability to submit premium payments;

F. Insurers impacted by this order are directed to make every reasonable effort to assist policy holders by informing them of the provisions of this order. Insurers are expected to document their outreach efforts to those who suffered property damage, injuries, and other losses as a result

of the catastrophic fires;

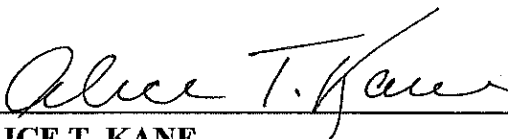
G. This Emergency Order shall take effect immediately for Lincoln County and the Mescalero Apache Reservation and shall remain in effect until Executive Order 2024-033 is renewed, modified, or rescinded by the Governor;

H. Copies of this Order shall be sent to all persons listed as service recipients on OSI's eDocket;

I. This Order shall be uploaded on the OSI Newsletter and sent out as a large volume correspondence to all Insurers licensed in New Mexico on the State Based System; and

J. This docket shall remain open until further written order of the Superintendent.

ISSUED under the seal of the New Mexico Office of Superintendent of Insurance at Santa Fe, New Mexico, this 18th day of June, 2024.


ALICE T. KANE
SUPERINTENDENT OF INSURANCE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 18th day of June 2024, I filed the *Emergency Order* through the OSI's e-filing system, which caused the parties to be served by electronic means, as more fully reflected on the eService recipients list for this case.

/s/Gloria Regensberg
Gloria Regensberg
Office of General Counsel
Office of Superintendent of Insurance



State of New Mexico

Michelle Lujan Grisham
Governor

EXECUTIVE ORDER 2024-033

DECLARING AN EMERGENCY IN LINCOLN COUNTY AND THE MESCALERO APACHE RESERVATION DUE TO WILDFIRES AND AUTHORIZING EMERGENCY FUNDS FOR THE DEPARTMENT OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT

WHEREAS, Lincoln County and the Mescalero Apache Reservation are being severely impacted by the Salt Fire and South Fork Fire, which began on June 17, 2024;

WHEREAS, the Salt Fire and South Fork Fire have already burned nearly 20,000 acres and are 0% contained;

WHEREAS, over 500 structures have been impacted by the fires thus far;

WHEREAS, the fires have led to the evacuation of the Village of Ruidoso and may require other nearby communities to evacuate;

WHEREAS, the Mescalero Apache Tribe has issued an executive order declaring a state of emergency due to these fires;

WHEREAS, Lincoln County has issued a local disaster declaration, confirming that all local resources available are insufficient to cope with the resulting situation and requesting aid, assistance, relief programs, and funding from the State of New Mexico;

WHEREAS, this disaster requires immediate action to protect public peace, health, and safety; and

WHEREAS, this disaster is of such magnitude as to be beyond local control and requires the resources of the State of New Mexico to minimize economic or physical harm and to take

actions necessary to protect the public health, safety, and welfare.

NOW, THEREFORE, I, Michelle Lujan Grisham, Governor of the State of New Mexico, by virtue of the authority vested in me by the Constitution and the laws of the State of New Mexico do hereby **DECLARE** a state of emergency to exist in Lincoln County and the Mescalero Apache Reservation due to the Salt Fire and South Fork Fire, and **ORDER** and **DIRECT** as follows:

1. The Department of Homeland Security and Emergency Management shall coordinate all requests for assistance and responses to such requests under the authority of and as determined by the Governor or her Authorized Representative. In addition to such other eligibility criteria as may be established by the Governor or her Authorized Representative, applicants requesting financial assistance from the State for necessary action taken in response to the emergency shall be required to demonstrate that the cost of the necessary action exceeds their available resources, as determined based upon criteria developed in conjunction with the State agencies, if any, with financial and budgetary oversight responsibilities for the applicant.

2. The Adjutant General shall order into service any elements of the New Mexico National Guard as are or may be needed to provide military support to civil authorities as needed for this emergency. This action is pursuant to and in accordance with NMSA 1978, Sections 20-1-1 to -8, NMSA 1978, Sections 20-2-1 to -8, and NMSA 1978, Sections 20-4-1 to -14. Such emergency assistance shall be provided during the period of need at the discretion of the Governor or her Authorized Representative.

3. All Cabinet Departments and agencies under gubernatorial control shall provide any assistance that may be required by the Department of Homeland Security and Emergency Management or by the State Emergency Operations Center under the authority of the Governor's Authorized Representative.

I FURTHER ORDER and **DIRECT** as follows:

1. This Order supersedes any previous orders, proclamations, or directives to the extent they are in conflict.
2. This Order shall take effect immediately and shall remain in effect until renewed, modified, or rescinded.

ATTEST:

Maggie Toulouse Oliver

MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

DONE AT THE EXECUTIVE OFFICE
THIS 18TH DAY OF JUNE 2024

WITNESS MY HAND AND THE GREAT
SEAL OF THE STATE OF NEW MEXICO

Michelle Lujan Grisham
MICHELLE LUJAN GRISHAM
GOVERNOR

