

BEFORE THE NEW MEXICO SUPERINTENDENT OF INSURANCE

IN THE MATTER OF AN)	
ORDER TO PROTECT)	Docket No. 2024-0015
ACCESS TO HEALTHCARE)	
SERVICES DURING THE CHANGE)	
HEALTHCARE CYBER-INCIDENT)	
_____)	

ORDER

THIS MATTER having come before the New Mexico Superintendent of Insurance (“Superintendent”):

THE SUPERINTENDENT FINDS AND CONCLUDES:

1. Change Healthcare, Inc. – a subsidiary of United Health Group (UHG) experienced a cyber-incident on February 21, 2024, that has affected billing, eligibility checks, prior authorization requests and prescription fulfillment.
2. The US Department of Health and Human Services (HHS) has stated that “[t]his incident is a reminder of the interconnectedness of the domestic health care ecosystem and of the urgency of strengthening cybersecurity resiliency across the ecosystem.”
3. The Centers for Medicare and Medicaid Services is evaluating the impact of the Change Healthcare cyber incident.
4. The National Association of Insurance Commissioners reports that Change Healthcare provides a range of services to health insurance companies offering major medical plans including but not limited to acting as a clearinghouse for claims data and Third-Party Administrator (TPA) for submission of claims and enrollment data.
5. The National Association of Insurance Commissioners reports that Change Healthcare handles 50% of all medical claims in the United States and has affected billing and care-authorization portals across all states, including New Mexico.

6. Healthcare providers are reporting inability to submit and process claims, bill patients, receive payments, verify patient health insurance information, submit prior authorizations, and prescribe medications. Non-hospital-affiliated physicians, physician groups, practices, and facilities are reporting the greatest technical challenges and delays in payment.
7. The Superintendent finds that the Change Healthcare cyber incident has affected a large portion of the healthcare system including but not limited to claims submission, claims payment, eligibility, prior authorizations requests and prescription fulfillment.
8. The Superintendent finds that the Change Healthcare cyber incident creates significant challenges for access to health care in a largely rural state that is already grappling with a significant provider shortage.
9. The Superintendent finds it is necessary to issue this Order to protect access to insurance, access to health care services, and the stability of the insurance markets.
10. The Superintendent has requested that major medical insurers and pharmacy benefit managers licensed in the state provide reporting to the Office of Superintendent on the impact the Change Healthcare cyber incident is having on their operations in Bulletin 2024-004.
11. The Superintendent encourages all medical insurance arrangements not directly regulated by the Office of Superintendent of Insurance to take similar actions required in this Order to ensure all New Mexicans have continued access to health care services and maintain stability in the insurance markets.
12. The Superintendent has jurisdiction over this matter pursuant to the New Mexico Insurance Code, NMSA 1978, Sections 59A-1-1 et seq., and including but not limited to NMSA 1978, Sections 59A-2-1 and 59A-2-8.

13. The Superintendent is given the authority pursuant to Sections 59A-2-1(B) to supervise the business of insurance, including insurance rates and rate practices, together with collection of insurance licenses, taxes or fees, and all records pertaining to such supervision.
14. The Superintendent is given the implied power and authority pursuant to Sections 59A-2-8 to take such action that is determined to be reasonably necessary for the proper exercise or fulfillment of the Superintendent's express authority.

IT IS THEREFORE ORDERED that:

- A. Major medical insurers regulated by the Office of Superintendent of Insurance shall suspend all prior authorization requirements issued since February 21, 2024, for **non-hospital-affiliated physicians, physician groups, practices, or facilities** impacted by the Change Healthcare cyber incident.
- B. No major medical insurer shall retroactively deny a claim submitted by a **non-hospital-affiliated physician, physician group, practice, or facility** impacted by the Change Healthcare cyber incident since February 21, 2024, due to:
 - a. Lack of utilization management approval;
 - b. Lack of prior authorization; or
 - c. Lack of eligibility confirmation.
- C. Major medical insurers regulated by the Office of Superintendent of Insurance shall waive timely filing deadlines for claims and appeals submitted by **non-hospital-affiliated physicians, physician groups, practices, or facilities** for all services rendered from February 21, 2024.

- D. Major medical insurers regulated by the Office of Superintendent of Insurance shall contact each contracted **non-hospital-affiliated physician, physician group, practice, or facility** and notify them of the contents of this order.
- E. Major medical insurers shall provide the Office of Superintendent of Insurance with a direct link to a webpage, hosted by the insurer, which OSI will publish on its website and distribute to provider associations. At a minimum, the insurer's webpage shall contain information regarding:
- a. Helplines for providers;
 - b. Assistance available to providers impacted by the cyber incident; and
 - c. Resources for providers and consumers impacted by the cyber incident.
- F. This order shall equally apply to telehealth and in-person services.
- G. The Superintendent reserves the right to request insurer data or reporting on this order.
- H. This Order shall take effect immediately and shall remain in effect for a period of thirty days (30), unless otherwise extended for such additional period deemed necessary.

ISSUED under seal of the New Mexico Office of Superintendent of Insurance at Santa Fe, New Mexico, this 20th day of March 2024



ALICE T. KANE
Superintendent of Insurance

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 20th day of March 2024, I filed the *Order* through the OSI's e-filing system, <https://edocket.osi.state.nm.us/home>, which caused the parties to be served by electronic means, as more fully reflected on the eService recipients list for this matter.

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