Insights

NAIC HOLDS SPECIAL SESSION ON COVID-19

Mar 23, 2020

On Friday, March 20, 2020, the National Association of Insurance Commissioners held (via video conference) a public Special Session concerning COVID-19 so that state insurance regulators and industry and consumer representatives could discuss insurance-specific issues arising from the COVID-19 pandemic. The Special Session was originally scheduled to take place in Phoenix during the NAIC's Spring National Meeting between March 21-24, but on March 11, the NAIC cancelled the Spring Meeting.

Insurance regulators in some states have already issued guidance and mandates to insurance companies that address insurance issues arising from the pandemic, but this was the first formal attempt to address them in a coordinated fashion. A regulator-only session followed the public one. We expect insurance regulators will hold additional sessions, both public and closed-door, and there is pressure from both industry and consumer groups for regulators to coordinate their responses.

Following presentations on COVID-19's pathology and progression, and a depiction of pandemic modeling, regulators and insurance industry participants focused on the following concerns:

- The impact of COVID-19 on the health insurance market and access to coverage.
- Effect of the pandemic and economic fall-out on insurance consumers.
- Potential financial impact on insurance companies, including effects of mandated coverage proposals.
- Insurer-readiness for handling insurance claims, regulatory requirements and policyholder claims.
- Regulatory Coordination.

Health Insurance and Consumer Issues

Consumer groups, industry representatives and regulators agreed that health insurance coverage for COVID-19 testing is important. However, the pandemic has broader repercussions for future access to health insurance coverage. As businesses cope with slowdowns and government-mandated closures, employee layoffs are expected, which raises questions such as:

- Will extended and additional health insurance enrollment periods be needed?
- Can employers keep laid-off employees on their group policies?
- Will Medicare become overburdened because of COVID-19's disproportionate effect on older persons?
- Will there be increased access to, and coverage for, telemedicine, waiver of cost-shares and extended prescription refill periods?

Regulators are also working with hospital associations on coverage issues related to transferring non-COVID-19 patients to other hospitals to increase capacity for expected increases in COVID-19 hospitalizations.

State Insurance Initiatives and Consumer Concerns

Throughout the Special Session, participants mentioned the various ways state insurance departments have responded to the pandemic, mostly through directives issued to the insurance industry such as:

- A Circular Letter requiring insurers to submit written plans describing their preparedness for managing operational risk and assessing the potential financial risk posed by COVID-19 (NY DFS Circular Letter No. 5, March 10, 2020).
- A letter to insurance company CEOs requiring that insurers explain to policyholders and regulators the availability of business interruption and other coverages and to submit corresponding statistical coverage information (NY DFS March 10, 2020 letter to insurance company CEOs).
- Formal Bulletins clarifying coverage for COVID-19-related claims (March 11, 2020 Ohio Insurance Department Bulletin advising that travel insurance covers COVID-19 related claims unless expressly exempted).
- Insurance Department requests that insurers waive cost-sharing requirements for testing and extending claims-filing deadlines (North Dakota Insurance Department Bulletin, March 11, 2020 and Connecticut Insurance Department Bulletin, March 9, 2020).
- Bulletins urging insurers to be "flexible" towards policyholders, by offering extended grace periods for premiums, payment plans, and/or waiving late fees/penalties (Pennsylvania Insurance Department Bulletin, March 19, 2020 and NY DFS Circular Letter 7, March 19, 2020).

All industry representatives urged state insurance regulators to coordinate their various initiatives, especially for data calls that may be duplicative or have rapid turnaround times that displace insurer resources for responding to pandemic-related issues.

Financial Impact on Insurers

Insurance industry representatives expressed confidence that, due to adequate reserving, insurers will be able to adequately respond both to health and property-casualty insurance claims related to COVID-19. However, they cautioned that this may not hold true if states mandate (as some are proposing to do) that insurers cover virus-related claims, especially for "business interruption" coverages.

Generally, business interruption coverages do not cover (and expressly exclude) losses caused by viruses resulting in illness. Nevertheless, legislators in some states, such as New Jersey, have proposed legislation that would require coverage of such claims, and on a retroactive basis. Regulators and insurer representatives agreed it is important for legislators to include the insurance industry in discussions about insurance-based solutions to the economic effects of the pandemic.

In terms of the pandemic's effect on insurers' overall financial strength, insurance industry representatives consider insurers sufficiently capitalized at this juncture, with high grade securities that have been relatively immune from recent market volatility (though some may be more exposed than others). In the long-term, however, low interest rates could have a negative impact on earnings and there may be pressure on insurers to invest more aggressively in the current volatile market environment.

Further, should the pandemic and economic crisis continue for a long period unabated, there will be an increased focus on insurers' financial strength. In fact, two days before the Special Session, A.M. Best announced it is developing a stress test to assess the effect of the pandemic on insurers' risk-based capital levels, investment portfolios, reserve adequacy and other risk factors. Shortly before the announcement, A.M. Best had revised its U.S. life/annuity industry's market segment outlook to "negative." During the Special Session, at least one industry participant acknowledged that some insurers might need to request adjustments to RBC-requirements.

Regulatory Impact

All participants agreed that there will be regulatory and operational requirements/deadlines that will need to be adjusted due to the pandemic's widespread impact on operations. Examples include extended premium payment due dates, extensions of insurer financial reporting deadliness, permitted variations from statutory reporting to adjust for delayed premium receipt and flexibility in annual report filings.

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MEET THE TEAM

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