

## NAIC Special Session on COVID-19



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Today, the National Association of Insurance Commissioners (NAIC) held a Special Session on COVID-19. A presentation on virus progression and pathology was made by Dr. Jay Butler, Deputy Director for Infectious Disease a Centers for Disease Control and Prevention (CDC). After Dr. Butler's presentation on the virus, additional presentations were made on its impact on the insurance industry by key regulators and stakeholders.

Dr. Butler offered further explanation on what many of us have seen in the news to this point. This virus was unknown three months ago and was first discovered in China in December 2019. The first known U.S. case was on January 21, 2020. Those at highest risk for the infection are older adults and those individuals with underlying health conditions. Globally, Dr. Butler has only seen one death for an individual under the age of 19. Dr. Butler indicates that it will be 12 to 18 months before a vaccine is in place. Proper hygiene, including use of hand sanitizer with an alcohol content above 60%, is key to limiting exposure coupled with social distancing. People can become infected and show no symptoms at all. However, individuals that are symptomatic show signs between 2 and 14 days with a majority of people showing signs between 4 and 7 days.

Commissioner Mike Conway of Colorado asked Dr. Butler why it appears the death toll in Italy is substantially higher. Dr. Butler stated that one reason could be the older population but another possibility is limitation of testing and they are only diagnosing the most severe cases. Milder illnesses may be going undiagnosed and the health care system in Italy is strained to keep up.

Dr. Butler was asked if an individual is immune to COVID-19 after he/she has been infected and then gets well. He stated that the CDC has not received any information on documented reinfections. However, this virus was unknown three months ago. The available time for reinfection is fairly limited. Other Coronaviruses do show an immune response and it may last a few years and then it wanes and people can become reinfected. It appears that once infected you may be immune in short term but data is not conclusive and do not have information to show long term.

Director Ray Farmer of South Carolina asked Dr. Butler if an employee recovers, should that employer require the person be retested before coming back. Dr. Butler stated that early in the progression of the virus, the healthcare community was focused on containment and wanted two tests before coming out of isolation and when more cases came in, that standard got harder to fulfill. Dr. Butler suggests that if it has been a week since onset of symptoms and 3 days since symptoms have gone, they can go back. In high risk area, worker should wear mask for 14 days.

Commissioner Sharon Clark of Kentucky asked if there was a checklist that medical providers are using to determine if someone should be tested. Dr. Butler stated that there was some variability in this determination. Clinicians should be encouraged to make the assessment and use their judgment and a guideline cannot address every situation.

After Dr. Butler finished outlining the progression and pathology of COVID-19, key industry representatives and regulators made presentations. First, representatives from Risk Management Solutions (RMS) made a presentation on pandemic modeling. RMS is a catastrophe risk modeling company and the presentation was made by Brice Jabo, Medical Epidemiologist; Maria Lomelo, Director of Product Management; and Matt Neilson, Senior Director of Governmental & Regulatory Affairs. The presenters had a PowerPoint presentation that will be posted to the [NAIC Coronavirus Resource Center Website](#) but were not yet available at the drafting of this alert. The RMS presenters discussed infectious disease modeling and risk assessment for a pandemic.

RMS Infectious Disease Modeling started in 2007. COVID-19 is the second pandemic the RMS model has dealt with. The foundation of the model includes more than 4500 scenarios including flu and emerging diseases. RMS has been keeping up to date with the developments but, as previously noted by Dr. Butler, no one knew about this disease three months ago. RMS has been working to understand the pathogen characteristics to help clients with appropriate modeling scenarios. One key characteristic that RMS has noted of COVID-19 is that, on average, one infected individual leads to an average infection rate of 1.5 to 3.5 new cases. The RMS model showed another figure that has also been in the news quite a bit. Non-pharmaceutical interventions such as school closures and social distancing decrease the overall infection rate or “flatten the curve” as the term has been used.

Randy Pate, CMS Deputy Administrator and Director, Center for Consumer Information and Insurance Oversight (CCIIO), and Troy Oechsner of Manatt Health gave a presentation on COVID-19’s impact on the health insurance market. Mr. Pate noted that on March 13, President Trump [declared a national state of emergency](#) and allowed the Secretary of Health and Human Services (HHS) to “temporarily waive or modify certain requirements of the Medicare, Medicaid, and State Children’s Health Insurance programs and of the Health Insurance Portability and Accountability Act Privacy Rule throughout the duration of the public health emergency declared in response to the COVID-19 outbreak.” As a result, the Secretary of HHS waived or modified a number of requirements that can be found [here](#). Additionally, the Secretary [expanded the use of telehealth](#) and allowed for Medicare to pay for telehealth services beginning March 6. CCIIO has also published a number of FAQs including [March 12](#) which addressed a number of issues in the individual and small group market and discussed COVID-19 related services, including testing, isolation/quarantine, and vaccination.

Mr. Oechsner discussed state action to this point including limitations on cost sharing and pre-authorizations related to COVID-19 testing and treatment. Additionally, states have been working to ensure network adequacy, expand telehealth coverage, and help consumers with access to prescription drugs. A number of states that have state sponsored exchanges have opened a special enrollment period (SEP) to allow individuals to purchase health insurance. Mr. Oechsner noted that there will be a lot of issues to determine on the road ahead including areas where Departments may require as opposed to request coverages from insurance companies. Additionally, Mr. Oechsner identified other areas in health insurance that will need to be discussed such as

- Coverage for Testing vs. Treatment
- Premium Grace Periods
- Surprise Medical Bills
- Non-ACA Compliant Products
- ERISA Preemption of Self-Insured Plans
- New Vaccine
- Rates, Risk Adjustment, Reserves

Commissioner Scott White of Virginia is the chair for the NAIC Financial Condition (E) Committee. Commissioner White, along with Sean Kevelighan and Michel Leonard of Insurance Information Institute (III), gave a presentation on the financial impact and policy coverage issues related to COVID-19. As a threshold issue, Commissioner White stressed that there are very few immediate solvency issues. He

mentioned the [Society of Actuary's Brief on the Impact of COVID-19](#) and stated that there are a number of open questions on the future and a lot will depend on our ability to “flatten the curve” and decrease the amount of time that we are facing this pandemic. In the event the current risk environment extends over a longer term, we can expect to see declining asset values and further drops in interest rates.

Mr. Kevelighan and Mr. Leonard discussed specific impacts on the property and casualty market. Mr. Kevelighan noted that property and casualty insurers are financially strong as a group and stand ready to pay claims. This segment of insurers has a surplus of \$800 billion, diverse investment portfolios and sufficient reinsurance to offset losses. There has been a significant amount of news surrounding business interruption insurance but Mr. Kevelighan stated that business interruption claims are not expected to impact industry's fundamentals. Additionally, in the event of insolvency, guaranty associations will be in place to protect consumers.

Mr. Leonard reiterated that the property and casualty industry is financially strong. They expect the highest impact in claims to be related to workers compensation for carriers providing coverage to health care professionals, first responders and transportation/retail employees. Liability and D&O coverage will have a moderate impact to carriers providing coverage to healthcare/pharmaceutical companies, entertainment/transportation/retail companies and manufacturing industry. The lowest impact is expected in the physical property and auto markets. Additionally, business interruption coverage will have a low impact due to waiting periods, high deductibles, and requirements for direct property loss.

A panel discussion on insurer readiness and consumer issues was held by Susan Neely, President & Chief Executive Officer, American Council of Life Insurers (ACLI), Matt Eyles, President & Chief Executive Officer, America's Health Insurance Plans (AHIP), Dr. David Sampson, President & Chief Executive Officer, American Property Casualty Insurance Association (APCIA) and Sarah Lueck, NAIC Consumer Representative and Senior Policy Analyst, Center on Budget and Policy Priorities.

Ms. Neely, Mr. Eyles and Dr. Sampson all stressed that insurers are working hard to help their members and policyholders during this time. Ms. Neely noted that life insurers are prepared to meet obligations, equipped to avoid disruptions in service, ready to help savers and retirees and are stepping up to support their communities. She had a number of recommendations including a request to deem insurance an essential service, flexibility with regulatory deadlines and assistance with data requests to companies regarding COVID-19. Mr. Eyles discussed a number of initiatives that health insurers are taking at this point to help including reducing/eliminating out-of-pocket costs related to testing and treatment for COVID-19 and reducing barriers to network referrals and prior authorizations. AHIP is currently acting as a clearinghouse for its members to help effectuate communication but the industry needs increased flexibility to appropriately provide healthcare services. Additionally, Mr. Eyles requested that the NAIC examine how it moves forward with committee work. The coming weeks and months will be very challenging and the health insurance industry wants to devote adequate resources to combating the virus and helping members. Dr. Sampson reiterated a number of issues that were previously identified by Ms. Neely and MR. Eyles. Insurers should be allowed to employ new technologies to help consumers without running afoul of regulatory barriers. In addition, it would be a great help to avoid implementing regulatory demands on consumer communications. Dr. Sampson also warned that if regulators made retroactive changes to laws to cover certain issues now, it would be disastrous to the industry.

Ms. Lueck noted a number of consumer issues, many revolving around health insurance. Ms. Lueck noted that people need broader access to insurance and Medicaid and special enrollment periods and tax credits to help people get insurance. Additionally, regulators needs to find a way to ease people's financial problems with social distancing. People need easier access to prescription drug refills, telemedicine, and overall healthcare. Ms. Lueck noted that other consumer representatives have identified other areas to address including auto insurance premium offset, a moratorium on credit scoring and additional scrutiny of credit related coverage.

A discussion of State health insurance market response was led by Commissioner Jessica Altman of Pennsylvania. Commissioner Altman is the NAIC's Health Insurance and Managed Care (B) Committee Chair. Commissioner Altman noted a number of common areas that state regulators are addressing right now including limitations on cost sharing, facilitating access to drug refills, verifying provider networks and insurer use of utilization review. She noted that some areas that are not as uniform or common among the states include asking insurers to say what they are doing to respond, consumer focused FAQs, placing specific requirements on short term limited duration (STLD) plans and states with state based exchanges that have implemented special enrollment periods.

Commissioner Jon Godfread of North Dakota stated that North Dakota implemented coverage requirements to STLD and travel insurance. STLD will have no cost sharing on testing. Travel insurance will include coverage for travel for COVID-19 treatment/transportation. Consumers are in an unknown situation and industry and regulators need to help them. Superintendent Eric Cioppa of Maine noted that an emergency regulation was put in place that allowed him to require payment of COVID-19 testing. He issued an order yesterday on telehealth and one on credentialing. Director Ray Farmer of South Carolina stated that South Carolina insurers have been very helpful during all of this and he has not had to issue any order directed at health insurers. Commissioner Conway noted the issues that they are addressing in Colorado and stated that he believes the next wave of issues will revolve around billing patients that are not COVID-19 patients as they get transferred from hospital to hospital in order to make more capacity for COVID-19 patients.

Director Farmer closed the Special Session letting participants know that insurance regulators and the NAIC will continue to work during this pandemic. The presentation materials will be available online and questions from participants will be posted along with answers.