



MIKE CAUSEY
INSURANCE COMMISSIONER

BULLETIN

North Carolina Department of Insurance Frequently Asked Questions (FAQs) associated with the Commissioner's Order and Bulletin 20-B-06 issued on March 27, 2020 and the Commissioner's Extended Order and Bulletin 20-B-07 issued on April 21, 2020

The following Frequently Asked Questions (FAQ) document has been created to assist you with understanding the Order and Bulletin 20-B-06 that North Carolina Insurance Commissioner Mike Causey issued on March 27, 2020, and amended by Order issued March 30, 2020, and the Extended Order and Bulletin 20-B-07 issued April 21, 2020. Pursuant to North Carolina General Statute (G.S.) § 58-2-46, Commissioner Causey invoked and extended Subdivisions (1) through (3) and provided for a state of disaster automatic stay of proof of loss requirements, premium, and debt deferrals.

This FAQ provides clarification and corrections to the previously issued FAQs and, therefore, supersedes those previous documents.

This FAQ does NOT apply to self-funded single-employer groups, Medicare plans, or Medicaid.

Please note that these FAQs are provided in order to address questions related to the Order and Extended Order. For reference purposes, please click on the statute link to view the details [G.S. § 58-2-46](#).

What does the Commissioner's Order mean?

The N.C. Insurance Commissioner's Order activating G.S. § 58-2-46, requires companies to give their policyholders or consumers affected by the COVID-19 health emergency **the option** to defer premium and debt payments.

While the statute requires the companies to "offer" a deferral, it does not require that companies notify all policyholders or consumers through mass communication of the availability of a deferral. Instead, it is up to the policyholder or consumer to notify the company that there is a payment issue, which then requires the company to make the offer to defer payment. Anytime the company has an occasion to speak to a policyholder or consumer during the deferral period about a payment, the company must make the offer to defer available.

It is important to understand that this law does not allow for a premium "holiday" or a "waiver". Premium payments will still need to be paid, but this allows a 30-day deferral or delay of the premium to give impacted policyholders or consumers extra time to arrange for payment. Companies must

allow policyholders or consumers to defer or delay payments that are due during the period of the Order.

No additional fees or penalties may be imposed should the policyholder or consumer choose to defer payment.

What does the Commissioner's Extended Order mean?

The Extended Order extends the deferral period another 30 days through midnight of May 26, 2020. This means that from April 27, 2020 through May 26, 2020, any payments that are due, including payments that were previously deferred, may be deferred 30 days. For example, if a payment was due April 1 and was deferred until May 1 at which time another premium is due, under the Extended Order, the April 1 payment (already deferred) and the May 1 payment may both be deferred until June 1.

Do the Commissioner's Order and Extended Order apply to policy cancellations?

Yes. The statute states that the deferral period applies to "any time limitations imposed on insurers under the terms of a policy or contract..."

Cancellation Notices and issuance

- Cancellations issued for non-payment, prior to or on the date of the Order, cannot be processed as the policyholder or consumer has the ability to perform an action on his/her policy. Even if the policyholder or consumer neglects to defer or take other action, the company may not take any action against the policyholder or consumer until the deferral periods under the Order and the Extended Order expire.
- Cancellations due to be issued for non-payment after the Order or the Extended Order cannot be issued and should be deferred.

Do the Commissioner's Order and Extended Order apply to policy non-renewals?

Yes. But, non-renewals issued before the Commissioner's Order may be processed on the date specified in the non-renewal notice.

Non-renewal Notices and issuance

- Non-renewals issued prior to or on the date of the Order, may be processed and terminated on the date specified in the notice.
- Non-renewals issued after the date of the Order, may not be transmitted to policyholders and should be deferred until after the expiration of the Extended Order.

Do the Commissioner's Order and Extended Order apply to policies cancelled for nonpayment of premium?

Yes. A policy cancelled for nonpayment of premium places a time limitation on the insurer to notify the policyholder or consumer and is, therefore, subject to the deferral period under G.S. § 58-2-46.

Do the Commissioner's Order and Extended Order apply to policies that an insurer plans to cancel for underwriting reasons such as material misrepresentation?

Yes. The statute provides an automatic deferral on policy cancellation regardless of the reason. There is no exception.

Who is required to comply with the Order and Extended Order?

Compliance with the provisions of G.S. § 58-2-46 is required of all insurance companies, premium finance companies, collection agencies, surplus lines insurers, and other persons subject to North Carolina General Statutes Chapter 58.

After the Order and Extended Order expire, will the policyholder or consumer be responsible for bringing the policy or account current?

Yes, the policyholder or consumer is responsible for bringing the policy or account current.

When do the Order and Extended Order expire?

The Order expires 30 days from issuance of March 27, 2020, which is April 26, 2020 at midnight. At 12:01 a.m. on April 27, 2020, the Extended Order becomes effective and it expires at midnight on May 26, 2020.

Are premium or debt deferrals automatically applied/given?

No, policyholders or consumers must be given the option to defer premium or debt payments. Policyholders or consumers must pursue the option to defer and should contact their insurance companies to request a deferral of their premium or debt payments. However, if a company has any occasion to speak with a policyholder or consumer regarding their payments during the deferral period, the company must offer the policyholder or consumer the option to defer.

If the policyholder or consumer fails to request a deferral, his/her policy or contract may be subject to contractual late payments or penalties but may not be cancelled until after the expiration of the Extended Order.

Is there any relief for carriers for fronting claims when premium payments are deferred? Does this apply for medical coverage only? Group and individual?

This Order and Extended Order applies to all premium payments for all insurance coverages.

For claims under health benefit plans that occur during the deferral period covered in the Order and Extended Order, insurers may elect to wait until the account is brought current before claims are paid. If premium payments remain unpaid after the deferral period, coverage lapses as of the date that coverage was paid up (see G.S. §58-2-46(3)).

For claims for all other lines of business during the deferral period covered in the Order and Extended Order, insurers shall follow the requirements under the appropriate policy and all applicable statutes and regulations.

Note that this answer corrects misstatements made in previous FAQs.

Can the employer administering the group insurance plan(s) choose to remain current if not, “negatively affected by the virus,” or do the Order and Extended Order demand the 30-day deferral go into effect, regardless.

Yes, the employer can choose to stay current on group premium payments. Deferral is not mandatory. The deferral time is 30 days from the last day a premium can be paid without termination occurring, but the deferral must be requested by the insured employer under a group policy. If the insured is covered by an individual policy, i.e. not insured under a group policy, the right of deferral must be requested by the insured person or policy owner.

Do the Order and Extended Order apply to self-funded single employer groups?

No, this Order and Extended Order does not apply to self-funded single employer groups. Your employer or insurance company can help you identify what kind of plan you have.

Questions involving Collection Agencies

Do collection agencies have to offer deferral on ALL debts, or just debts to insurance companies? For example, do they have to offer a deferral when collecting on a Macy's credit card?

The Commissioner's Order and Extended Order apply to ALL debts not only insurance debt. The statute requires companies and others regulated by Chapter 58 to provide their customers with the option to defer premium and debt payments.

It is up to the customer to take the necessary steps to contact the collection agency to discuss his/her options.

If the collection agency contacts the customer to discuss repayment, the agency must advise the customer of the option to defer payment for 30 days.

The customer must affirmatively state his/her desire to exercise the option to defer or delay debt payments to the company and not just assume the company will defer the payment.

After the customer has been advised of his/her option to defer or delay debt payments and accepts it, no additional late fees may be imposed until after the deferral.

How do collection agencies address debt payments that are already in default prior to the Commissioner's Order and Extended Order being issued?

If the customer requests his/her payments to be deferred, then all debt pursuits and collection activities should cease. The deferral covers transmission of notices of action, any payments which are currently in collection, including those where a payment schedule has been set-up, and time limits imposed by statute. Not just payments are deferred; ANY collection activity should cease for 30 days should the customer request a deferral.

How does the NCDOL interpret the phrase "debt payments that are due?" Does this statute apply to voluntary, non-contractual debt repayment, which a customer has set up via ACH or a credit card payment arrangement with a collection agency?

G.S. § 58-2-46 does apply to voluntary, non-contractual debt payments, which have been set up by a customer via ACH or credit card payment arrangements with the collection agency.

If the customer requests a deferral or suspension of the collection activity for 30 days then the company should cease collection activity for the customer for the duration of the Order and Extended Order.

Can late fees and additional fees be applied to an account?

No late fees or additional fees should be applied to an account.

Are collection agencies responsible for notifying or contacting customers in payment arrangements and offering a deferral?

No, collection agencies are not responsible for contacting customers through mass communication and offering them a deferral. However, if the collection agency is contacted by the customer about his/her debt, the option of a deferral must be given. If a collection agency contacts a consumer individually to discuss debt repayment, the option of a deferral must be given.

It is up to the customer to state his/her desire to exercise the option to defer their debt payments.

No additional fees or penalties may be imposed should a customer choose the option to defer payment.

Are debt deferrals automatically applied/given?

No. Customers must be given the option to defer debt payments. The customer must pursue the option to defer or delay and should contact the collection agency to request a deferral of debt payments.

Do the Order and Extended Order apply to a law firm that represents clients who are looking to enforce payment provisions of contracts when the law firm is managed by attorneys and does not purchase any of the accounts on which it is collecting and/or litigating?

That depends on who the firm is representing. G.S. § 58-70-15(c)(8) states that a "Collection Agency" does not include [...] Attorneys-at-law handling claims and collections in their own name and not operating a collection agency under the management of a layman." If the firm is representing non-insurance creditors then the Commissioner's Order and Extended Order do not apply to the actions taken on behalf of the creditors. However, if the firm is representing insurance companies in an effort to collect payments under insurance contracts or policies, then the firm must delay collection activities on behalf of its clients during the deferral period.