

Employee Benefits Considerations Before a Hurricane or Storm

There are certain employee benefits-related issues to consider in advance of a hurricane or storm. For those expected to be impacted by such a catastrophe, here are some practical preparation tips to ensure your employees have access to their employee benefits:

FOR EMPLOYEES PREPARING FOR THE STORM REMIND THEM TO:

- locate insurer ID cards and take them with during an evacuation
- locate personal identification documents (Driver's License, Social Security Card, Passport, etc.) and take them with on the evacuation
- bookmark insurance carrier's provider network on a device and identify in-network providers in the evacuated safe zones;
- remember passwords, if they have established online accounts with any carriers

FOR EMPLOYERS WITH EMPLOYEES OR OTHERS (SUCH AS COBRA BENEFICIARIES) LIKELY TO EVACUATE THE PATH OF THE STORM:

- contact your carrier or TPA to see if they have replacement providers that employees can use if their providers are not operating during the storm and to understand how they will authorize prescription refills if a home prescriber cannot be reached;
- consider sending out communications with contact information for relevant carriers and service providers so employees have that available if they cannot locate their ID cards;
- plan to be flexible with deadlines for filing claims or submitting premium payments, but clear any flexibility with your insurance carrier or stop-loss carrier (While official guidance is not usually released until after the storm has passed through, based on guidance from prior storms, it seems most governmental agencies will expect employers to provide some flexibility to their employees on these matters. Always consult the guidance once it is released);
- make sure employees' emergency contact information is up to date;
- provide employees with emergency contact information for someone at the employer in case they need to contact the employer while away from their home and primary place of work;
- decide whether you want to waive the requirement for employees to be actively at work to stay on health coverage and, if so, contact your carrier (if insured) or stop loss carrier (if self-funded) to make sure they agree with your approach;
- if you decide to require employees to be actively at work to maintain coverage, coordinate with your COBRA vendor once employees are no longer working; and
- COBRA notices should be mailed to the last known address, even if you are not sure if the employee is at that address. However, if an employee gives an updated address, the notice should be sent to that updated address.



FOR EMPLOYERS WITH OPERATIONS IN THE PATH OF THE STORM:

- contact your carriers, TPAs, and other vendors ahead of time, if possible, to discuss how premiums will be paid and claims will be adjudicated in the event the employer's operations are shut down for an extended period of time;
- provide the carriers emergency contact information for any employees responsible for plan matters so that the carriers have a point of contact for issues that arise;
- review any data backup and disaster recovery plans for employee benefit plan data;
- make sure electronic data is being held by the carrier/TPA or is otherwise backed up in an offsite facility;
- paper records should be stored as safely as possible to prevent loss during the storm (and scanned into electronic files and stored offsite, if possible);
- if the employer is responsible for HIPAA compliance (i.e., is not hands off PHI), data should be protected in accordance with applicable HIPAA requirements and a disaster recovery plan should be in place; and
- if you receive COBRA payments or other employee benefit communications at an address affected by the storm, consider going to www.usps.com to put in a forwarding address.

IF YOUR CARRIER, TPA, OR OTHER SERVICE PROVIDER IS IN THE PATH OF THE STORM:

- contact the service provider and ask about any emergency protocols or contact information;
- discuss how premium payments or other contribution remittances will be handled (ERISA generally requires that employee benefit payroll deductions be used to pay for insurance premiums within 90 days of when they are taken from employees' pay, or be deposited in trust, which is rare. However, the DOL is likely to be flexible on timing if the carrier or other service provider is not operating); and
- discuss whether and how employees can contact the service provider, or their colleagues in another office, until operations are restored to submit claims, dispute claim determinations, or ask questions.

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