



Hardship – Exigent Circumstances Policy

I. General Statement

The West Virginia Public Employee’s Insurance Agency (PEIA) is, from time to time, confronted with exigent circumstances which require it to deviate from and/or alter, amend, suspend, or otherwise modify its Standard Operating Procedures, including policy and/or Plan rule(s) which are outlined in the PEIA Plan Document and/or the PEIA Summary Plan Description. Such events include, but are not limited to:

- A. Epidemics and/or Pandemics
- B. Public health emergencies as declared by State and/or Federal authorities
- C. State and/or National disasters
- D. Acts of Terrorism
- E. Weather emergencies
- F. Other exigent circumstances as determined by the Governor, Legislature and/or the PEIA Director

Such deviations from the PEIA Standard Operating Procedures would be made to meet the need(s) and/or mandate(s) of the exigent situation and may include, but not necessarily be limited to:

- A. Extension of benefits and/or coverage(s)
- B. Expansion of benefits and/or coverage(s)
- C. Enhancement of benefits and/or coverage(s)
- D. Modification of benefits and/or coverage(s)
- E. Restriction of benefits and/or coverage(s)
- F. Suspension of benefits and/or coverage(s)
- G. Termination of benefits and/or coverage(s)
- H. Waiver of collection(s)
- I. Waiver of payment(s)
- J. Suspension of collection(s)
- K. Suspension of payment(s)
- L. Allowing for alternate work environments for employees, staff, contractors, and/or others.

II. Supporting Documents: Procedures and Resources

1. West Virginia Code §§5-16-1, et seq.
2. West Virginia Code §15-5-6. Emergency powers of Governor
3. Section 319 of the Public Health Service (PHS) Act – SEE:
<https://www.phe.gov/Preparedness/legal/Pages/phedeclaration.aspx>



Hardship – Exigent Circumstances Policy

Legal/Compliance
Responsible Parties: Privacy Officer and General
Counsel
Date Created: 04/06/2020
Date Approved: 04/15/2020
Effective Date: 04/15/2020
Next Review Date: 07/31/2020

4. The PEIA Plan Document, as filed with the Secretary of State's Office
5. The PEIA Summary Plan Description
6. The PEIA Continuity of Operation Plan
7. The Consolidated Omnibus Budget Reconciliation Act (COBRA)
8. The Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191
9. Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, 42 U.S.C. 5121 et seq., and Related Authorities.

III. Scope and Applicability

This policy and procedure, once enacted by the PEIA Director, shall apply to all PEIA employees, contractors, subcontractors, Business Associates, and/or other affected party(ies) as applicable to their role(s) in PEIA operations and/or as it relates to their performance of any scope of work on any Agreement, contract, or Memorandum of Understanding for and/or with PEIA.

IV. Policy Statements

1. It is the desire and intent of PEIA to be able to continue to provide the appropriate level(s) of service to its policyholders and their covered dependents.
2. PEIA believes that it is impossible to predict and/or otherwise foresee every potential event, incident, or scenario that may have a direct or indirect impact on the Plan(s).
3. The purpose and intent of this policy is to provide PEIA with the ordered mechanism in which to adapt to and meet the challenges, needs, and demands of exigent and/or emergency events, incidents, or circumstances.

V. Procedures

1. In the event of an exigent event, incident, circumstance, or scenario, the Director shall notify all staff that he/she will be activating the terms and conditions of this policy.
2. In the event of the inaccessibility, incapacity, or unavailability of the PEIA Director, the authority(ies) granted under this policy shall follow the PEIA Chain of Command.
3. The PEIA Director and/or his/her designee(s) will assess the situation and make a determination of the exigent event, incident, circumstance, or scenario's impact on PEIA members and dependents, and on over PEIA operations.
4. The PEIA Director and/or his/her designee(s) will make an initial determination as to how long the deviation(s) shall be in effect, e.g. 30 days, 60 days, until a defined date, indefinite, until the condition(s) that prompted the deviation(s) is/are under control, or other.



Hardship – Exigent Circumstances Policy

Legal/Compliance
Responsible Parties: Privacy Officer and General
Counsel
Date Created: 04/06/2020
Date Approved: 04/15/2020
Effective Date: 04/15/2020
Next Review Date: 07/31/2020

5. If the exigent event, incident, circumstance, or scenario should last longer than 90 days, the Director shall conduct a review of the deviation(s) to determine their efficacy and applicability, and may continue, suspend, alter, amend, or otherwise modify any and/or all deviation(s) as he/she deems appropriate.
6. Once enacted, the Director and the senior management team and/or his/her designee(s) shall formulate an addendum to this policy that addresses the specific deviations from PEIA Standard Operating Policy(ies) and/or Procedure(s). That Addendum shall be titled as follows:

DATE OF ENACTMENT – NAME OF EXIGENT EVENT POLICY VERSION

**For example: 01APRIL2020 – COVID-19 PANDEMIC ADDENDUM TO Hardship –
Exigent Circumstances Policy**

VI. Right to revise

PEIA reserves the right to revise, edit, amend, alter, or otherwise modify this policy and its procedures as needed.

VII. Enforcement

1. The PEIA Director
2. PEIA Senior Management
3. PEIA Supervisors

Draft Policy Version 1.0

Interim Policy Approved by the General Counsel on
Revised Final Policy adopted on

Policy Review and Update Task Group

Privacy Officer
General Counsel
Director
Deputy Director of Insurance Operations
Clinical Staff
West Virginia Office of Technology (if applicable)



Hardship – Exigent Circumstances Policy

Legal/Compliance
Responsible Parties: Privacy Officer and General Counsel
Date Created: 04/06/2020
Date Approved: 04/15/2020
Effective Date: 04/15/2020
Next Review Date: 07/31/2020

09APRIL2020 – COVID-19 PANDEMIC ADDENDUM TO Hardship – Exigent Circumstances Policy

Eligibility and Premium Payment Guidance for COVID-19 Response

1. PEIA continues to address issues related to eligibility for coverage during the National Coronavirus pandemic. Generally, PEIA needs to address the issues related to layoffs by PEIA participating employers and/or termination(s) caused by COVID-19 precautions interrupting operations.
2. If the employer is requiring employees to not report for work without pay due to layoffs, furloughs or any other form of separation from work duties that results in an employee's position to remain open until normal operations resume, PEIA may consider these and address these situations as employer approved leaves of absence(s). The employer and employee must continue to be responsible for monthly health premiums. They pay premiums and we continue coverage. Nothing in this policy waives or otherwise relieves the employer nor the employee of their obligation(s) to pay premium(s) for coverage(s) provided. PEIA may require periodic confirmation that the employer of a furloughed employee continues to hold the employee's position open for eventual return to active employment.
3. For terminations where the employer has no plan to bring the employee back and is not holding a position open for the employee, the employee would be entitled to the additional three (3) months of coverage for an involuntary termination provided in the PEIA statute. **THE EFFECTIVE DATE OF THE TERMINATION OF EMPLOYMENT MUST BE SUBMITTED BY THE EMPLOYER.** The employer and employee must continue to pay premiums throughout those three (3) months, then the employee would be entitled to enroll in benefits through COBRA.
4. In the event the employer is facing financial hardship due to COVID-19 precautions, employers must contact their premium accounts representative for further direction. PEIA will discern the situation present for potential arrangements to avoid any termination(s) and/or suspension(s) in PEIA coverage(s). PEIA is not currently allowing automatic interruption of coverages due to failure to pay premiums by non-state employers. Under West Virginia Code §5-16-12a (a) PEIA will request a written



Hardship – Exigent Circumstances Policy

Legal/Compliance
Responsible Parties: Privacy Officer and General Counsel
Date Created: 04/06/2020
Date Approved: 04/15/2020
Effective Date: 04/15/2020
Next Review Date: 07/31/2020

explanation of the cause of the inability to pay premiums due to COVID-19 from the employer.

5. As of the effective date of this Addendum, PEIA policyholder shall have until June 30, 2020 to provide copy(ies) of any documents supporting the addition of dependents and/or changes in coverage(s), e.g. birth certificates, marriage certificates, Change(s) In Insurance Status, or other Open Enrollment type documents. Requests for Changes in plan(s) may still be submitted on-line through the Manage My Benefits portal(s). Benefit Coordinators approving said changes should make a note in the submission: ***“DOCUMENTS SUPPORTING THIS REQUESTED CHANGE NOT AVAILABLE AT THIS TIME – WILL BE SUBMITTED BY JUNE 30,2020”***
6. The failure by the employer and/or the employee to submit the required documents by the June 30, 2020 deadline may result in the termination and/or suspension of benefits for the affected party(ies).
7. **ANY ELIGIBILITY EVENTS THAT DISQUALIFY AND/OR REMOVE THE ELIGIBILITY OF A POLICYHOLDER OR DEPENDENT SUCH AS DIVORCE, DEATH OF A POLICYHOLDER OR DEPENDENT, ETC. MUST STILL BE REPORTED IMMEDIATELY.** PEIA will pend the eligibility of the ex-spouse, step-child(ren) and/or other now ineligible dependent until the supporting document(s) can be submitted, e.g. divorce decree(s), termination of guardianship(s), etc.
8. Covered dependent children and step-children who would, under normal plan policy and procedures, “age-off” [reach the age of 26] the plans health coverage(s) during the effective date(s) of this addendum will be allowed to remain covered under the policyholder’s UMR health coverage(s) until June 30, 2020. Covered dependents will still “age-off” the plans life insurances. Further, covered dependent children and step-children will continue to “age-off” coverage(s) provided by the Health Plan.
9. PEIA may suspend and/or otherwise not pursue the collection of premium(s) from employers, employees, and/or retirees during the effective date(s) of this addendum. This relief action does not waive, void, and/or otherwise remove the obligation(s) of said employers, employees, and/or retirees of their debt for those premiums.

Some common (FAQ) questions have arisen:



Hardship – Exigent Circumstances Policy

Legal/Compliance
Responsible Parties: Privacy Officer and General
Counsel
Date Created: 04/06/2020
Date Approved: 04/15/2020
Effective Date: 04/15/2020
Next Review Date: 07/31/2020

- 1. What do we do about new employees who aren't actively at work on their first day of eligibility? Example: Employee hired on 3/2/2020 would have coverage effective 4/1/2020 but they were not "actively at work" on this date.**
ANSWER: If the employer and employee are paying premiums, we should let them have coverage. This would be especially important for employees who transferred from one participating employer to another.
- 2. How do we handle changes in status?**
ANSWER: We handle changes in status as usual. Members can submit changes in status online or on paper. Forms are available on our website if the member can't use Manage My Benefits. Documentation of dependents would still be required but PEIA is allowing until June 30, 2020 for the submission of these supporting documents.
- 3. Do we need to have a formal "notice" drawn up to be given to members who may be laid off or furloughed?**
ANSWER: If the member is terminated, they'll get the standard COBRA notification; otherwise, at this point we are not planning to suspend benefits, so no notice would be required. PEIA would not be aware of the situation unless it was a termination, so there would be nothing to trigger the notice to the employee.
- 4. What do we do about a whole employer shutting down?**
ANSWER: We are currently not interrupting coverage for failure to pay premium by non-state employers, so we would continue to provide coverage and bill for premiums if the employer contacts PEIA and provides explanation and a payment plan and the deferred payment and repayment plan is approved.
- 5. What will we do about a potential surge in the adding of dependents due to the dependents losing their employment – especially those dependents who work in the service industries, e.g. eligible dependent children/step-children under 26?**
ANSWER: If the policyholder has coverage is in force, the policyholder has the right to add and remove dependents based on a qualifying event. The scenario described here would be a qualifying event, so we would enroll the dependent. The loss of employment and/or change in employment should be cited as the Qualifying Event on the submitted Change In Status form(s)
- 6. What happens when all this is over?**
ANSWER: PEIA will return to the Standard Operating Policies and Procedures that were in effect before the pandemic.
- 7. Will the employer be responsible for any premium(s) paid during the time frame in which coverage(s) were provided during this pandemic?**
ANSWER: "Yes"



PUBLIC EMPLOYEES INSURANCE
AGENCY POLICIES AND PROCEDURES

Hardship – Exigent Circumstances Policy

Policy/Procedure Version 1

Legal/Compliance
Responsible Parties: Privacy Officer and General
Counsel

Date Created: 04/06/2020
Date Approved: 04/15/2020
Effective Date: 04/15/2020
Next Review Date: 07/31/2020