

**RECEIVERSHIP FINANCIAL ANALYSIS (E) WORKING GROUP
Of the RECEIVERSHIP AND INSOLVENCY (E) TASK FORCE**

Feedback on the Impact of the Pandemic on Administration of Insurance Receiverships

The following is a summary of responses received to a 2020 survey request for feedback on the impact of the COVID-19 pandemic on administration of insurance receiverships. The results of the survey are released by the Receivership Financial Analysis (E) Working Group of the Receivership and Insolvency (E) Task Force. The information provided includes challenges or issues identified, possible considerations for overcoming those issues, circumstances to avoid or watch for, critical planning & processes to consider and cyber security protocols to consider.

Survey responses were received from ten states' insurance departments and receivership offices, and three interested parties representing guaranty associations.

Disclaimer: These materials are intended to provide possible considerations for identifying issues that may be of assistance to a receiver or guaranty association. These materials are not intended to serve as a procedural requirement for any jurisdiction. This information relates to individual experiences and receiverships, and are not necessarily suitable or applicable in all situations or jurisdictions. Consult the applicable regulatory authority and department procedures in your jurisdiction.

OPERATIONS— REMOTE WORK

IDENTIFICATION OF CRITICAL TASKS

- Identify critical tasks that need to continue.
- Identify persons responsible for critical tasks, their location and a back-up plan in case an employee is unable to perform tasks.
- Identifying essential resources/staff who are required to work onsite.
- Identify any processes that have been unable to be performed but are necessary to complete projects.
- Consider whether the completion of non-critical business processes can be delayed during periods of heightened public health guidance.
- Identify internal controls and ensure the process is followed.

PLANNING, TESTING, AND IMPLEMENTING DISASTER PREPAREDNESS

- Develop a Disaster Recovery and Business Continuity Plan.
 - Ensure the Disaster Recovery and Business Continuity Plans adequately address a pandemic.
 - Develop a Communications Plan.
 - Define how Corporate Governance protocols will be addressed.
 - Define a Work-From-Home Policy and be prepared to implement the Policy.
 - Coordinating customer service responses to calls when not readily available to assist CSR's with responses to unique questions.
 - Complete understanding of key contacts.
- Test the Disaster Recovery and Business Continuity Plan.
 - At least twice yearly.
 - Implement and test a disaster plan on a test basis, e.g. during floods in our community, or hurricane season.

- Fully vet and test the Virtual Private Network (VPN). Have a small group of employees test a work-from-home day followed by a full staff work-from-home day.
- Develop a COVID-19 work resumption plan for the ultimate return to the office one day, which involves social distancing, cleaning and size restrictions for meetings, among other health and safety precautions.

ESTABLISHING REMOTE ACCESS AND NEW PROCEDURES

- Establish automated systems and processes necessary for remote work. The result being essentially a turn-key remote work capability.
 - Establish remote access to business systems, programs, technology and operating procedures in order to enable all employees to work from home when recommended by public health officials.
- Establish the ability for employees to connect to a server remotely that provides all their files as if they were sitting at their desks in the office.
- Deployed equipment to employees (i.e. laptops, monitor, printers and office chairs) to simulate the office experience in the employees' home. Considerations:
 - Creating the ability to operate in a paperless work environment.
 - Replacing PCs with laptops.
 - Purchase desk top phones and headsets for all staff members to be able to make and receive telephone calls inside or outside of the office.
 - Setup and check printers at reliable employees' home locations.
 - Essential for ability to remote print and mail of claims checks.
 - Responsible employees are supplied with necessary office supplies, check stock paper, printing paper, postage etc.
 - Determine procedures and schedule for how equipment will be returned either by car drop off or UPS label.
- Migration of phone system to a cloud-based provider with full audio and on demand video conferencing for all staff members, for a monthly service fee and no additional charges. Essential for:
 - Transparent telephone availability to external and internal customers.
 - Video meetings with external and internal customers, including but not limited to meetings with attorneys, mediations and or any other typically in-person meetings.
 - Maintain visibility with staff and to conduct video staff meetings. Initially, weekly and then bi-weekly or on an as needed basis.
 - Staff relationships. Employees are able and encouraged to video conference with other employees.
 - Training, including onboarding and training of new staff members.
- Accommodations for employees during the pandemic:
 - For employees with school-aged children and with home schooling due to school closures, do your best to provide some employees the needed flexibility.
 - May need to pay the cell phone bills for employees using their cell phones for work.
 - For employees with poor internet access, may need to provide hot spots paid for by the office.

ENHANCING CYBER SECURITY FOR REMOTE ACCESS

- Enhance your cyber security. Staff use of remote access tools in performing day to day responsibilities may increase cyber security risk.

- Information technology specialists should be consulted to ensure that the requisite data security protocols are in place to facilitate secure remote access to the requisite systems and data.
- Enforce remote access controls for all employees that would prevent unauthorized access to the Company's infrastructure.
- Provide additional training sessions with a significant focus on cyber security training, especially for a work-from-home environment. For example:
 - No family members using the office laptop / chrome.
 - Sign off if away from your computer.
 - Home firewalls.

ESTABLISHING EFFECTIVE COMMUNICATION WITH STAFF AND EXTERNAL PARTIES

- Best Practice: Over Communicate!
- Establish a communications process to all employees and to all vendors for necessary updates.
- Clearly communicate requirements for communicating with receivership staff.
- Clearly communicate with all employees about expectations related to working remotely and in-person.
 - For example: Educate employees that policyholders and beneficiaries rely on them. Checks need to be distributed today because waiting a day may mean several days during the pandemic. Responding to emails and phone calls remains a priority for staff, but it is an even higher priority during the pandemic.
- Communicating to employees about the status of work-from-home practices, corporate operations, and the receivership requires constant attention.
- Establish daily "run down" section meetings that allow the receiver and remote employees to run down a list of objectives/tasks to work on for the day.
- Weekly staff meetings via conference call which can include health / safety issues and cyber security topics.

ESTABLISHING COMMUNICATION TECHNOLOGY AND METHODS

- Determine existing technology options that allow for virtual communication and monitoring, and decide if sufficient.
- Transfer meetings from in person to webinars.
- Zoom and conference calls are used by the CLO to update the group on our progress in meeting the CLO goals and to discuss the challenges of working remotely.
- Corporate governance protocols need to be modified in both in-house and standalone receiverships to accommodate a virtual environment, using video conferencing tools such as Zoom and Microsoft Teams.

OPERATIONAL – IN OFFICE WORK

SAFETY OF EMPLOYEES WORKING IN AN OFFICE DURING THE PANDEMIC

Safety Measures

- Place employee safety at the top of the priority list.

- Understand and/or establish current pandemic protocols for working in office. Care should be taken that all business processes comply with public health guidelines.
- Work with those who need to be in the office to determine if the office is accessible and what options are open to them.
- Clearly communicate to all staff the protocol for working in the office.
- Establish pandemic protocols for employees of both the company and receiver that may include building entry/exposure questionnaire (including location in the building), mask requirement, social distancing, and temperature checks.
- Establish reporting requirements for exposure, testing and results (conduct contact tracing if possible).
- Provide safety measures for essential workers such as hand sanitizers, gloves, masks, and social distancing. Determine if there is required personal protective equipment at the office building and order what is needed.
- Caution employees every week to follow safety guidelines even in their personal lives.
- Worked with vendors, such as case nurse managers, doctors, and adjusters. Some providers are able to provide services via the internet.
- Engage in professional cleaning/sanitizing options for location.

Employees in the Office

- Consider restricting employee office time to critical business processes that cannot be performed remotely, such as information technology maintenance and the receipt and processing of mail.
- Consider block scheduling and protocols to implement contact tracing should the need arise for employees that must enter an office location to perform critical tasks related to essential business processes.
- Limit staff in the office. For example, alternating staff in the office (Monday / Tuesday Team and a Wednesday / Thursday Team) to have one person from each functional area physically in the office Monday through Thursday.
- Employee and vendor engagement—make sure everyone feels heard.
- Be careful not to loosen standards associated with essential onsite staff members who may not be supervised in person.

Mail Processing

- Despite initial plan to forward mail to a reliable employee's home address, the carrier continued to deliver some mail to the office. That was discontinued and now have a reliable employee who lives close to the office go into the office for a couple of hours to process the mail.
- An employee goes to the office each day, opens mail, scans it to the appropriate party for handling. That employee also makes bank deposits and distributes checks for signatures.

COMMENCEMENT OF A NEW RECEIVERSHIP

Challenges faced during the pandemic have varied and depend on the type of estate you are handling.

INABILITY TO TRAVEL AND BE ON-SITE AT THE COMPANY

- One of the biggest obstacles is not being able to travel to the company at the point of putting the company into receivership due to state travel bans. We used various technology the best we could to communicate with staff at the company (i.e. MS Teams, Skype, Zoom, etc.), but it still was not like being on-site and seeing what is actually happening. For the transferring of data, we used a secured file sharing mechanism similar to what we do for exams to transfer data back and forth.
- Where the receivership and company staff are working from home, approvals are held through email, ZOOM meetings and phone calls.
- Working from home has reduced receivership expenses as travel expenses have been eliminated.
- Control of operations and getting feedback and information is challenging without physical presence.
- In a situation where an insurance company with 6,300 members went into receivership, in May, the company notified it had closed all its offices including the headquarters building and all 75 employees were furloughed. The receiver had no documents and no employees to help. The receiver obtained the employer mailing list and membership lists from the holding company. The receiver has set up its own domain name and PO Box. A former employee who knows the process will be responsible for collecting the proof of claims from the PO Box, stamping, scanning and sending them to the receiver to assign a class and send a letter. All banking is done virtually except for physical deposits. The receiver will use an outside mailing house to send out the proofs of claims and correspondence regarding the liquidation and I will transfer the mailing list to them. This is to avoid using state personnel due to limited in office staff and the State's mail system.

ASSESSING ON-GOING COMPANY OPERATIONS AND THE IDENTIFICATION OF KEY EMPLOYEES TO RETAIN AS PART OF YOUR REHABILITATION OR LIQUIDATION TEAM

A challenge during the Covid-19 pandemic surrounds new receiverships and the ability to assess on-going company operations and the identification of key employees to retain as part of your rehabilitation or liquidation team. The receiver has had to rely on Zoom meetings and email to put together key performance indicators ("KPIs") to evaluate company operations.

ATTRACTING POTENTIAL PURCHASES TO ACQUIRE THE TROUBLED INSURER OR ITS BOOK OF BUSINESS

The receiver has had a hard time attracting potential purchases to acquire the troubled insurer or its book of business. Traditionally, the potential purchasers have deployed an acquisition team to spend weeks meeting with the management team of the troubled insurer and pouring over the financials and business records. During the COVID-19 most due diligence is conducted remotely, and it doesn't appear to provide the potential purchasers with the same degree of comfort in moving forward with a proposal. Zoom meetings and FTP sites have been deployed for data exchange as a best practice.

PROCESS OF CHANGING ACCOUNT SIGNATORIES AT BANKS

The process of changing account signatories at banks has become an elongated process during Covid-19. Traditionally, the Receiver would walk into a local bank branch with a receivership order and a drivers' license and although the bank's legal team spent time reviewing the order, the receiver would generally gained control of the bank accounts within 24 hours. The attempt to change signatories remotely has been a challenge for the receiver as well as the banks. The Attorney General's help as been sought in changing signatories and in one instance the bank asked if the Insurance Commissioner could come in and make the signatory change.

RECEIVERSHIPS INVOLVING HOLDING COMPANIES

While staying remote, a complete understanding of the company structure under the holding company is necessary. A determination regarding the solvency of all companies related and housed together is necessary to prepare and try to head off any bankruptcy filings. Data segregation is a big issue complicated by remote access. Who owns the data and the systems needs to be determined so access to the systems remotely can be granted or preparations for a third party to pull data can be done?

RECEIVERSHIP ORDERS

Whenever possible, service and enforcement of receivership orders are performed remotely, rather than in person, using modern technology tools.

ADMINISTRATION OF A RECEIVERSHIP

NOTIFYING POLICYHOLDERS AND CREDITORS OF CLAIM ADJUDICATION DECISIONS

Consider whether to suspend issuance of receivership notices to policyholders of claim adjudication determinations that are subject to statutory objection deadlines under state law during periods of "shelter-in-place" guidance, in order to enable policyholders greater opportunity to receive and consult with advisors on their claim decisions.

TRANSITIONING TO A WORK-FROM-HOME ENVIRONMENT WITHOUT DISRUPTION TO POLICY AND CLAIMS ADMINISTRATION IN ACTIVE INSOLVENCIES

FOR GUARANTY ASSOCIATIONS:

- In terms of the physical transition to a work-from-home environment, a primary focus was on the seamless and successful continuation of TPA functions.
- A best practice is the immediate and ongoing communication and coordination with TPAs and other service providers (including frequent status calls to monitor developments and operations).

RESPONDING TO COVID-RELATED IMPACTS ON DELIVERY OF BENEFITS TO INSURED, PARTICULARLY IN THE CONTEXT OF LONG-TERM CARE BUSINESS

FOR GUARANTY ASSOCIATIONS:

- Assessing technical readiness for remote access – including data security protocols, VPNs and back-up. (Refreshing privacy and data security training as needed).

- Assessing operational impacts and ability to perform all necessary functions, including eligibility determinations, premium collection, account access, claims processing, batch reporting, claims funding, check issuance, and customer service, and considering any procedural issues/challenges or changes that may be needed.
- Assessing staffing, by function, and identifying back-up staff to cover essential functions in the event of illness or other loss of availability.
- Verifying procedures/location for tasks that must be handled in person (e.g., gathering/processing mail and check handling).
- Updating contact information for all key personnel to ensure ongoing, timely access and communications.
- Providing COVID Response information on websites, including alternative customer service contact information as needed.
- Some of the issues and challenges encountered with respect to delivery of benefits included premium collection and lapse avoidance; being able to conduct in-person eligibility assessments; getting complete/timely claims documentation from insureds, providers or facilities; insureds seeking to leave nursing or assisted living facilities due to COVID-19 concerns (and the potential loss of WOP benefits upon leaving facilities); and the lack of available in-home care.
- The following guidance has been developed by task forces and guaranty associations to address issues and challenges arising as a result of the COVID-19 pandemic.

Premium collection/grace periods/lapse avoidance:

- Insureds affected by quarantines or other COVID-related restrictions may be unable to make or mail payments. Consider alternative means for making premium payments. Encourage use of EFTs to automate payments.
- Temporary extension of grace periods or pauses on lapses may also be considered, though it must be clear that any such extensions are deferrals and not abatements.

Claim review and adjudication: There may be delays in receiving complete supporting documentation from providers or facilities as they also encounter workforce changes and business interruptions. Consider extending timelines for receipt of claims and third-party provider/facility documentation as a short-term accommodation to aid in proper claim adjudication.

Eligibility Determinations: (E.g., in home and quality of care assessments required under LTC policies.) Some agencies may be unable to send staff to conduct these in-home assessments, or insureds may be uncomfortable allowing outsiders into their home while the pandemic continues to be a threat. Consider use of alternatives, such as phone or virtual visits to facilitate delivery of benefits without exposing the insured to outside risks.

Requests for Policy Variances or Alternative Care Plans:

- These requests may come from insureds seeking to leave nursing homes or assisted living facilities for fear of contracting COVID-19, and requesting an alternative plan of care, such as in-home care. They can also arise when agencies providing in-home care are unable to send staff into private homes, and insureds seek approval for family member care. In either case, insureds may be concerned about losing waiver of premium benefits upon departure from a facility or termination of in-home agency care.
- It is important to have a protocol in place for addressing requests for accommodation and to provide clear direction concerning the handling of such requests. TPAs and service providers

should be directed to refer any COVID-related concerns and/or accommodation requests to the appropriate state life and health insurance guaranty association. In any event, coverage cannot be expanded beyond that provided under the applicable policy and guaranty association statute.

- The guaranty associations continue to monitor TPA operations and developments that may impact the delivery of benefits in open insolvencies¹, as well as new regulations and DOI recommendations concerning COVID-related issues.

MODIFYING PROCESSES AND PROCEDURES IN RESPONSE TO REGULATORY REQUIREMENTS OF THE PANDEMIC:

- Consider altering certain policyholder services functions to comply with regulatory requirements associated with late premium payments and policy lapse processing.
- Work with those in accounting are staying current with premium payments being submitted via mail, via lock box or electronically as you will need to understand how premium payments are processed and put new procedures in place.

COURT/HEARING DELAYS, SCHEDULING CHALLENGES

Specific State Challenges:

- Minnesota has had a challenge getting a hearing due to delays in scheduling. The states' Attorney General's office is at the mercy of the courts and what the court prioritizes. Minnesota statute requires a hearing so there are no work arounds on this issue.
- Wisconsin has not experienced any slowdown from the courts in Wisconsin, as they had been making electronic filings prior to COVID and continued with that process.
- In Kansas, the main challenge has been the partial shutdown of courts and the different rules suspending hearings, timelines, etc. in the various jurisdictions and forums. In this case, Kansas asked for and received an extension from the liquidation court in Kansas to extend the claims bar date.
- California has encountered significant delays in obtaining court hearings for receivership proceedings or subsequent filings. Most California courts have given priority to criminal cases and the routine matters of insurance receivership has been put on the back burner. As an accommodation, we have discussed making less filings and combined filings where we deem it possible do so. If possible, obtain the insurers consent to receivership prior to your filing with the Court. A contested receivership will languish in the Courts and incur additional administrative costs in maintaining the status quo with the impaired insurer while obtaining a Court date for the contested receivership hearing.
- Illinois converted three rehabilitations to liquidations and commenced one new proceeding during the period. Illinois courts quickly adapted to the pandemic, establishing remote access to video hearings for proceeding with both pending and new receivership cases. Electronic filing of pleadings was already in place.

OTHER TOPICS / CONSIDERATIONS

- Federal release process: Submit early due to Department of Justice (DOJ) delays.
- Proof of Claim (POC) submissions: Make sure to account for the digital telework environment.

¹ This would include extreme weather events having the potential to impact long-term care insureds in open insolvencies.