

**NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
SIXTY-THIRD AMENDMENT TO 11 NYCRR 52
(INSURANCE REGULATION 62)**

**MINIMUM STANDARDS FOR THE FORM, CONTENT AND SALE OF HEALTH
INSURANCE, INCLUDING STANDARDS OF FULL AND FAIR DISCLOSURE**

I, Adrienne A. Harris, Superintendent of Financial Services, pursuant to the authority granted by Sections 202, 301, and 302 of the Financial Services Law, Sections 301, 3217, 3217-a, 3217-b, 4324, and 4325 of the Insurance Law, Sections 4406-c and 4408 of the Public Health Law, and the federal No Surprises Act, do hereby promulgate the following Sixty-Third Amendment to Part 52 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 62), to take effect upon publication of the Notice of Adoption in the State register, to read as follows:

(ALL MATERIAL IS NEW)

Section 52.54(d) is added as follows:

(d)(1) The disclosure requirements in Insurance Law sections 3217-a(a)(1) through (6), (9), (10), (15), (16), (17), (18), (19)(A) and (B), and (20); 3217-a(b)(1), (2), (4), (5), (7), (8) if applicable, (10), (11), (13) and (14); 4324(a)(1) through (6), (9), (10), (15), (16), (17), (19), (20)(A) and (B), and (21); and 4324-a(b)(1), (2), (4), (5), (7), (8) if applicable, (10), (11), (13) and (14) shall apply to stand-alone dental insurance and stand-alone vision insurance.

(2) In addition to the disclosure requirements in paragraph (1) of this subdivision, the disclosure requirements in Insurance Law section 3217-a(a)(7) and (11) through (13) and Insurance Law section 4324(a)(7) and (11) through (13) shall apply to stand-alone dental insurance and stand-alone vision insurance that meets the definition of a “managed care product” in Insurance Law section 4801(c).

(3) This subdivision shall apply to any policies issued, renewed, modified, or amended on or after one year after the effective date of this section.

A new section 52.77 is added as follows:

§ 52.77 Payment when an issuer provides inaccurate network status information.

(a) If an insured who is covered under an accident and health insurance policy that uses a network of health care providers receives a bill for out-of-network services resulting from an issuer providing inaccurate network status information to an insured, the issuer shall not impose on the insured a copayment, coinsurance, or deductible for the service that is greater than the copayment, coinsurance, or deductible that would be owed if the insured had received services from a participating provider. The issuer shall apply the out-of-pocket maximum that would have applied had the services been received from a participating provider.

(b) Pursuant to Insurance Law sections 3217-b(n) and 4325(o) and Public Health Law section 4406-c(12), if an issuer provides inaccurate network status information to an insured, the issuer shall reimburse the provider for the out-of-network services regardless of whether the insured’s coverage includes out-of-network

services.

(c)(1) An issuer that issues comprehensive health insurance policies shall provide network status information to an insured in writing through print or electronic means, if the insured consents to electronic communication, within one business day of the insured requesting the information by telephone or through electronic means, if available.

(2) An issuer that issues a policy, other than a comprehensive health insurance policy, that uses a network of providers shall provide network status information to an insured in writing through print or electronic means, if the insured consents to electronic communication, within three business days of the insured requesting the information by telephone or through electronic means, if available.

(3) An issuer shall retain any recordings of telephone requests for network status information and a copy of its written response to the insured in the insured's file in accordance with section 243.2(b)(8) of this Part.

(d) An issuer provides inaccurate network status information when:

(1) the issuer represents in the provider directory posted on its website that a non-participating provider is participating in the issuer's network;

(2) the issuer provides information, upon an insured's request made by telephone or through electronic means, if available, that a non-participating provider is participating in the issuer's network;

(3) the issuer fails to provide information in writing through print or electronic means, if the insured consents to electronic communication, regarding a specific provider's participating status within the timeframes established in subdivision (c) of this section; or

(4) the issuer represents in the hard copy provider directory that a provider is participating in the issuer's network and the provider is non-participating as of the date of publication of the hard copy provider directory.

(e) An issuer shall include in its hard copy provider directory a notification that the information contained in the directory was accurate as of the date of publication of such directory and that an insured should consult the provider directory posted on the issuer's website to obtain the most current provider directory information.

(f) As used in this section:

(1) *Non-participating* means not having an agreement with an issuer with respect to the rendering of health care services to an insured.

(2) *Participating* means having an agreement with an issuer with respect to the rendering of health care services to an insured.

(3) *Issuer* means an insurer licensed to write accident and health insurance in this State, a corporation organized pursuant to Insurance Law Article 43, a municipal cooperative health benefit plan certified pursuant

to Insurance Law Article 47, a health maintenance organization certified pursuant to Public Health Law Article 44, and a student health plan certified pursuant to Insurance Law section 1124.

(g) This section shall apply to all comprehensive health insurance policies issued, renewed, modified, or amended on or after the effective date of this section. This section shall apply to policies other than comprehensive health insurance policies that are issued, renewed, modified, or amended on or after one year after the effective date of this section.

KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

CERTIFICATION

I, Adrienne A. Harris, Superintendent of Financial Services, do hereby certify that the foregoing is the Sixty-Third Amendment to Part 52 to Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 62), signed by me on November 22, 2022, pursuant to the authority granted by Sections 202, 301, and 302 of the Financial Services Law, Sections 301, 3217, 3217-a, 3217-b, 4324, and 4325 of the Insurance Law, Sections 4406-c and 4408 of the Public Health Law, and the federal No Surprises Act, to take effect upon the publication of the Notice of Adoption in the State Register.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed rule was published in the New York State Register on November 24, 2021, and prior notice of the revised proposed rule was published in the New York State Register on August 17, 2022. No other publication or prior notice is required by statute.

Adrienne A. Harris
Superintendent of Financial Services

Date: November 22, 2022