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

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

I, Linda A. Lacewell, Superintendent of Financial Services of the State of New York, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301, 3216, 3217, 3221, and 4303 of the Insurance Law, do hereby promulgate the Sixtieth 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 filing with the Secretary of State, to read as follows:

**(ALL MATERIAL IS NEW)**

**Section 52.16(r) is added as follows:**

(r)(1) No policy or contract delivered or issued for delivery in this State that provides comprehensive coverage for hospital, surgical, or medical care shall impose, and no essential worker shall be required to pay, copayments, coinsurance, or annual deductibles for an in-network outpatient mental health service, unless the policy or contract is a high deductible health plan as defined in Internal Revenue Code section 223(c)(2), in which case the service may be subject to such plan's annual deductible if otherwise required by federal law.

(2) An insurer shall provide written notification, which may include e-mail, to its in-network outpatient mental health providers that they shall not collect any deductible, copayment, or coinsurance from an essential worker in accordance with this subdivision. Such notice shall include the definition of essential worker.

(3) *Essential worker* means:

(i) individuals who are or were, on or after March 7, 2020, employed as health care workers, first responders, or in any position within a nursing home, long-term care facility, or other congregate care setting, including:

(*a*) correction/parole/probation officers;

(*b*) direct care providers;

(*c*) firefighters;

(*d*) health care practitioners, professionals, aides, and support staff (e.g., physicians, nurses, and public health personnel);

(*e*) medical specialists;

(*f*) nutritionists and dietitians;

(*g*) occupational/physical/recreational/speech therapists;

(*h*) paramedics/emergency medical technicians;

(*i*) police officers;

(*j*) psychologists/psychiatrists; and

(*k*) residential care program managers; and

(ii) individuals who are or were, on or after March 7, 2020, employed as essential employees who directly interact or interacted with the public while working, including:

(*a*) animal care workers (e.g., veterinarians);

(*b*) automotive service and repair workers;

(*c*) bank tellers and other bank workers;

(*d*) building code enforcement officers;

(*e*) childcare workers;

(*f*) client-facing case managers and coordinators;

(*g*) counselors (e.g., mental health, addiction, youth, vocational, and crisis);

(*h*) delivery workers;

(*i*) dentists and dental hygienists;

(*j*) essential construction workers at occupied residences or buildings;

(*k*) faith-based leaders (e.g., chaplains and clergy members);

(*l*) field investigators/regulators for health and safety;

(*m*) food service workers;

(*n*) funeral home workers;

(*o*) hotel/motel workers;

(*p*) human services providers;

(*q*) laundry and dry-cleaning workers;

(*r*) mail and shipping workers;

(*s*) maintenance and janitorial/cleaning workers;

(*t*) optometrists, opticians, and supporting staff;

(*u*) retail workers at essential businesses (e.g., grocery stores, pharmacies, convenience stores, gas stations, and hardware stores);

(*v*) security guards and personnel;

(*w*) shelter workers and homeless support staff;

(*x*) social workers;

(*y*) teachers/professors/educators;

(*z*) transit workers (e.g., airports, railways, buses, and for-hire vehicles);

(*aa*) trash and recycling workers; and

(*bb*) utility workers.

**Statement of the Reasons for the Emergency Measure**
**Sixtieth Amendment to 11 NYCRR 52**
**(Insurance Regulation 62)**

Governor Andrew M. Cuomo declared a state of emergency on March 7, 2020, which has been extended, to help New York more quickly and effectively contain the spread of the novel coronavirus ("COVID-19"). While the COVID-19 pandemic has had an immeasurable impact on all New Yorkers, the impact on essential workers, including health care workers, first responders and other frontline essential workers, has been especially difficult. They have been required to directly interact with the public while working during this public health emergency, exposing themselves and their families to incremental risks, all to ensure that essential services continue to be available for all New Yorkers. For health care workers and first responders, in particular, witnessing the devastating effects of COVID-19 firsthand can take an emotional and psychological toll. This amendment prohibits authorized insurers and health maintenance organizations (collectively, "health care plans") that provide comprehensive coverage for hospital, surgical, or medical care from imposing, and provides that no essential worker shall be required to pay, copayments, coinsurance, or annual deductibles (unless required by federal law for a high deductible health plan) for mental health services rendered by in-network providers on an outpatient basis for essential workers. The amendment requires every health care plan to provide written notification of the requirements of the amendment to its in-network mental health providers ("providers") to ensure that the providers do not require an insured to pay a copayment, coinsurance, or annual deductible that is prohibited from being imposed pursuant to the amendment.

Given the continued toll this crisis has had on essential workers, including health care workers, first responders and other frontline essential employees, it is essential that these workers have access to mental health services. The waiver of copayments, coinsurance, and annual deductibles for in-network mental health services rendered by in-network providers on an outpatient basis is necessary to ensure that these workers have no barriers to the care they need.

To ensure that essential workers have access to mental health services, it is imperative that this amendment be promulgated on an emergency basis for the preservation of public health and general welfare.

Linda A. Lacewell
Superintendent of Financial Services

Dated: April 26, 2021

NEW YORK STATE OF OPPORTUNITY. Department of Financial Services

ANDREW M. CUOMO
Governor

LINDA A. LACEWELL
Superintendent

# CERTIFICATION

I, Linda A. Lacewell, Superintendent of Financial Services, do hereby certify that the foregoing is the Sixtieth 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), entitled "Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure", signed by me on April 26, 2021, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301, 3216, 3217, 3221, and 4303 of the Insurance Law, to take effect upon filing of the Notice of Emergency Adoption with the Secretary of State.

Pursuant to Section 202(6) of the State Administrative Procedure Act, the Sixtieth Amendment to 11 NYCRR 52 (Insurance Regulation 62) is being promulgated as an emergency measure. A statement of the specific reasons for the finding of the need for emergency action is attached.

Linda A. Lacewell
Superintendent of Financial Services

Date: April 26, 2021