NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
FIFTY-NINTH 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 Section 29-A of the Executive Law and Executive Order 202.14, dated April 7, 2020, promulgated thereunder, Sections 202 and 302 of the Financial Services Law, and Sections 301, 1120, 1124, 3216, 3221, 3240, 4305, and 4306 of the Insurance Law, do hereby promulgate the Fifty-Ninth 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 of the Notice of Emergency Adoption with the Secretary of State, to read as follows:

(All Material is New)

Section 52.1 is amended by adding a new subdivision (t) as follows:

(t)(1) On April 7, 2020, Governor Andrew M. Cuomo issued Executive Order 202.14, which temporarily modified Insurance Law sections 3216(d)(1)(C) and 4306(g), subject to consideration by the superintendent of the liquidity and solvency of the applicable insurer or HMO, to extend the period for the payment of premiums to the later of the expiration of the applicable contractual grace period and 11:59 p.m. on June 1, 2020 for any comprehensive health insurance policyholder or contract holder under an individual policy who is facing a financial hardship as a result of the COVID-19 pandemic; require that such insurer or HMO be responsible for the payment of claims during such period; and bar such insurer or HMO from retroactively terminating the insurance policy for non-payment of premium during such period.

(2) The Executive Order also granted the superintendent the authority to promulgate an emergency regulation, subject to consideration by the superintendent of the liquidity and solvency of the applicable insurer, HMO, or student health plan, to extend the period for the payment of premiums to the later of the expiration of the applicable contractual grace period and 11:59 p.m. on June 1, 2020 for any small group or student blanket comprehensive health insurance policy, or any child health insurance plan policy where the policyholder or contract holder pays the entire premium, for any policyholder or contract holder who is facing financial hardship as a result of the COVID-19 pandemic; require that such insurer, HMO, or student health plan be responsible for the payment of claims during such period; and bar such insurer, HMO, or student health plan from retroactively terminating the insurance policy for non-payment of premium during such period. Section 52.63 implements that directive.

(3) This subdivision and section 52.63 are promulgated pursuant to Executive Order 202.14 and for the duration specified therein, which may be extended.

Section 52.2 is amended by adding new subdivisions (z), (aa), (bb), (cc), (dd), and (ee) to read as follows:

(z) *COVID-19* means the coronavirus disease 2019.

(aa) *Credit reporting agency* means a reporting agency that regularly engages in the practice of assembling or evaluating and maintaining, for the purpose of furnishing credit reports to third parties bearing on a person's credit worthiness, credit standing, or credit capacity, and credit account information from persons who furnish that information regularly and in the ordinary course of business.

(bb) *Debt collection agency* has the meaning set forth in General Business Law section 600.

(cc) *Executive Order* means Executive Order 202.14.

(dd) *Late fee* means a fee associated with an insurance premium payment that is made at a time later than the premium due date, but prior to both insurance policy or contract termination and the time in which an insurer, HMO, or student health plan may reject premium payment.

(ee) *Student health plan* has the meaning set forth in Insurance Law section 1124(a)(5).

A new section 52.63 is added as follows:

Section 52.63. Extension of premium payment periods for individual, small group and student blanket comprehensive health insurance policies as a result of the COVID-19 pandemic; prohibited practices.

(a) Pursuant to the Executive Order, an insurer, HMO, and student health plan, subject to consideration by the superintendent of the liquidity and solvency of the applicable insurer, HMO, or student health plan, shall extend the period for the payment of premiums to the later of the expiration of the applicable contractual grace period and 11:59 p.m. on June 1, 2020 for any individual, small group, or student blanket comprehensive health insurance policy, for any policyholder or contract holder who can demonstrate financial hardship as a result of the COVID-19 pandemic. Such an insurer, HMO, and student health plan shall be responsible for the payment of claims during such period and may not retroactively terminate the insurance policy for non-payment of premium during such period.

(b) With regard to an individual, small group, or student blanket comprehensive health insurance policyholder or contract holder who does not make a timely premium payment and can demonstrate financial hardship as a result of the COVID-19 pandemic, the applicable insurer, HMO, or student health plan:

(1) shall not impose any late fees relating to such premium payment;

(2) shall not report the policyholder or contract holder to a credit reporting agency or refer the policyholder or contract holder to a debt collection agency with respect to such premium payment; and

(3) shall provide information to the policyholder or contract holder regarding alternate policies available from the insurer, HMO, or student health plan and provide contact information for the NY State of Health.

(c) Subject to consideration by the superintendent of the liquidity and solvency of the applicable insurer, HMO, or student health plan, the insurer, HMO, or student health plan also shall, within ten business days following the promulgation of this section:

(1) mail or deliver, which may include email, written notice to every individual, small group, or student blanket comprehensive health insurance policyholder and contract holder of the provisions of this section and a toll-free number that the individual, small group, or student blanket comprehensive health insurance policyholder or contract holder may call to discuss billing and make alternative payment arrangements; and

(2) notify insurance producers and any third-party administrators with whom or which the insurer does business of the provisions of this section.

(d) A licensed insurance producer who procured the individual, small group, or student blanket comprehensive health insurance policy for the policyholder or contract holder shall mail or deliver, which may include email, notice to the policyholder or contract holder of the provisions of this section within ten business days following the promulgation of this section.

(e) Solely for the purposes of this section, an insurer, HMO, or student health plan shall accept a written attestation from an individual, small group, or student blanket comprehensive policyholder or contract holder as proof of financial hardship as a result of the COVID-19 pandemic.

(f) Nothing shall prohibit an individual, small group, or student blanket comprehensive health insurance policyholder or contract holder from voluntarily cancelling a health insurance policy.

(g) The period to pay insurance premiums set forth in the Executive Order and this section shall not constitute a waiver or forgiveness of the premium.

(h) The period set forth in the Executive Order and subdivision (a) of this section applies only to terminations attributed to a failure by an individual, small group, or student blanket comprehensive health insurance policyholder or contract holder to pay premiums during such period. If an insurer, HMO, or student health plan terminates a policy for any other reason permitted by law, the insurer, HMO, or student health plan shall comply with statutory notice requirements.

(i) This section shall also apply to any child health insurance plan policy where the policyholder or contract holder pays the entire premium.

Statement of the Reasons for the Adoption of Emergency Measure
Fifty-Ninth Amendment to 11 NYCRR 52 (Insurance Regulation 62)

On March 7, 2020, Governor Andrew M. Cuomo issued Executive Order Number 202 declaring a disaster emergency in the State of New York in response to the novel coronavirus ("COVID-19") pandemic. As the COVID-19 pandemic continues, and transmission of the disease persists, the need to assist New Yorkers throughout this unprecedented health crisis remains vital. To address this urgent need, the Governor issued Executive Order 202.14 ("EO 202.14") on April 7, 2020, which authorizes the Superintendent of Financial Services ("Superintendent") to promulgate a regulation in accordance therewith.

This emergency measure implements EO 202.14 by amending 11 NYCRR 52, with respect to any policyholder or contract holder who does not make a timely premium payment and can demonstrate financial hardship as a result of the COVID-19 pandemic, by: (i) requiring an insurer, Insurance Law Article 43 corporation, health maintenance organization, or student health plan certified pursuant to Insurance Law Section 1124 (collectively, "issuers") to extend the period for the payment of premiums to the later of the expiration of the contractual grace period and 11:59 p.m. on June 1, 2020 for any small group or student blanket comprehensive health insurance policy or contract, or any child health insurance plan policy or contract where the policyholder or contract holder pays the entire premium, requiring issuers to be responsible for the payment of claims during such period, and prohibiting issuers from retroactively terminating the insurance policy or contract for non-payment of premium during such period, subject to the Superintendent of Financial Services' consideration of an issuer's liquidity and solvency; and (ii) prohibiting late fees and issuers reporting negative data to credit reporting agencies, requiring issuers to provide information to policyholders and contract holders regarding alternate policies and contracts available from the issuer, and requiring issuers to provide contact information for the NY State of Health.

To help ease the extensive financial and healthcare burdens brought about by the COVID-19 pandemic by ensuring New Yorkers continue to maintain their individual, small group, and student blanket comprehensive health insurance policies or contracts, and in compliance with EO 202.14, it is imperative that the Superintendent promulgate this emergency measure for the public's health and general welfare.

Linda A. Lacewell
Superintendent of Financial Services

Dated: April 7, 2020

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 Fifty-Ninth 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), duly authorized and signed by me on April 7, 2020, pursuant to the authority granted by Executive Law Section 29-a; Executive Order No. 202.14, dated April 7, 2020, promulgated thereunder; Financial Services Law Sections 202 and 302; and Insurance Law Sections 301, 1120, 1124, 3216, 3221, 3240, 4305, and 4306, to take effect upon filing of the Notice of Emergency Adoption with the Secretary of State of New York.

Pursuant to Section 202(6) of the State Administrative Procedure Act, this consolidated rulemaking 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 7, 2020