

INSURANCE DEPARTMENT OF THE STATE OF NEW YORK  
42<sup>nd</sup> AMENDMENT TO REGULATION NO. 62  
(11 NYCRR 52)  
MINIMUM STANDARDS FOR THE FORM, CONTENT AND SALE OF HEALTH  
INSURANCE, INCLUDING STANDARDS FOR FULL AND FAIR DISCLOSURE

I, James J. Wrynn, Superintendent of Insurance of the State of New York, pursuant to the authority granted by the federal Social Security Act (42 U.S.C. section 1395ss) and by Sections 201, 301, 3201, 3216, 3217, 3218, 3221, 3231, 3232, and 4235, and Article 43 of the Insurance Law, do hereby promulgate the following 42<sup>nd</sup> amendment to Part 52 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 62), to take effect upon publication in the State Register.

(NEW MATTER UNDERLINED; DELETED MATTER IN BRACKETS)

Subdivision (a) of section 52.11 is amended to read as follows:

(a) *Medicare supplement insurance* is an individual or group policy or certificate of accident and health insurance [which] that is advertised, marketed or designed primarily as a supplement to reimbursements under Medicare for the hospital, medical or surgical expenses of persons eligible for Medicare. This definition is applicable regardless of whether the policy form is labeled as Medicare supplement insurance. A Medicare supplement insurance policy and certificate thereunder is governed by the rules set forth in Part 58 of this Title. The disclosure requirements for Medicare supplement insurance are set forth in sections 58.3 and 58.5 of this Title.

Section 52.14 is repealed.

A new Section 52.14 is added as follows.

§52.14 Medicare select policies and certificates. *Medicare select policy* or *Medicare select certificate* means a Medicare supplement policy or certificate respectively, that contains restricted network provisions. Medicare select policies and certificates are governed by the rules set forth in Part 58 (Regulation 193) of this Title. The disclosure requirements for Medicare select insurance are set forth in sections 58.3 and 58.5 of this Title.

Paragraph (2) of subdivision (c) of section 52.16 is amended to read as follows:

(2) mental or emotional disorders, alcoholism and drug addiction, except that coverage must be made available or provided pursuant to section 52.7 of this Part and sections 3221[,] and 4303 of the Insurance Law. Medicare supplement insurance issued pursuant to section[s] 52.11 of this Part and [52.22] Part 58 of this Title [Part] shall not include limitations or exclusions which are more restrictive than those of Medicare for this type of benefit;

Paragraph (6) of subdivision (c) of section 52.16 is amended to read as follows:

(6) foot care, in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain or symptomatic complaints of the feet; unless the policy is issued as Medicare supplement insurance pursuant to

section[s] 52.11 of this Part and [52.22] Part 58 of this Title [Part], in which case the policy shall not include limitations or exclusions more restrictive than those of Medicare for this type of benefit;

Paragraph (7) of subdivision (c) of section 52.16 is amended to read as follows:

(7) care in connection with the detection and correction by manual or mechanical means of structural imbalance, distortion or subluxation in the human body for purposes of removing nerve interference and the effects thereof, where such interference is the result of or related to distortion, misalignment or subluxation of or in the vertebral column; unless the policy is issued as Medicare supplement insurance pursuant to section[s] 52.11 of this Part and [52.22] Part 58 of this Title [Part], in which case the policy shall not include limitations or exclusions more restrictive than those of Medicare for this type of benefit;

Paragraph (11) of subdivision (c) of section 52.16 is amended to read as follows:

(11) rest cures, custodial care and transportation, unless the policy is issued as Medicare supplement insurance pursuant section[s] 52.11 of this Part and [52.22] Part 58 of this Title [Part], in which case the policy shall not include limitations or exclusions more restrictive than those of Medicare for this type of benefit; and

Subdivision (e) of section 52.16 is amended to read as follows:

(e) Except with respect to Medicare supplement insurance, as defined in section[s] 52.11 of this Part and [52.22] Part 58 of this Title [Part], nothing contained in subdivisions (c) and (d) of this section shall preclude:

Subdivision (i) of section 52.16 is amended to read as follows:

(i) The terms *Medicare supplement*, *Medigap*, *Medicare Wrap-Around* and words of similar import shall not be used unless the policy is issued or amended to comply with section[s] 52.11 of this Part and [52.22] Part 58 of this Title [Part].

Paragraph (34) of subdivision (a) of section 52.17 is amended to read as follows:

(34) At the time of an event described in 42 U.S.C. section 1395ss(s)(3)(B) or (F)\* because of which an individual loses coverage or benefits due to the termination of the policy or the individual ceases enrollment under the policy, the insurer of the policy from which termination or disenrollment occurs shall provide the individual with written notification of his or her rights and of the obligations of issuers of Medicare supplement insurance policies under [section 52.22(b)(3) and (k)] Part 58 of this Title [Part]. If an individual loses coverage or benefits due to termination of the policy, such notification must be provided contemporaneously with the notification of termination. If an individual ceases enrollment under the policy, such notification must be provided within 10 working days of the insurer receiving notification of disenrollment.

\* 42 United States Code 1395ss [(2001)] (2007) published by the Office of Law Revision Counsel, United States House of Representatives. It is available from the New York State Insurance Department, Office of General Counsel, 25 Beaver Street, New York, NY 10004.

Paragraph (9) of subdivision (a) of section 52.18 is amended to read as follows:

(9) At the time of an event described in 42 U.S.C. section 1395ss(s)(3)(B) or (F)\* because of which an individual loses coverage or benefits due to the termination of the policy or the individual ceases enrollment under the policy, the insurer of the policy from which termination or disenrollment occurs shall provide the individual with written notification of his or her rights and of the obligations of issuers of Medicare supplement insurance policies under [section 52.22(b)(3) and (k)] Part 58 of this Title [Part]. If an individual loses coverage or benefits due to termination of the policy, such notification must be provided contemporaneously with the notification of termination. If an individual ceases enrollment under the policy, such notification must be provided within 10 working days of the insurer receiving notification of disenrollment.

\* 42 United States Code 1395ss [(2001)] (2007) published by the Office of Law Revision Counsel, United States House of Representatives. It is available from the New York State Insurance Department, Office of General Counsel, 25 Beaver Street, New York, NY 10004.

Section 52.22 is repealed.

Subdivision (a) of section 52.54 is amended to read as follows:

(a) No individual accident and health insurance policy shall be delivered or issued for delivery in this State, unless the appropriate disclosure form in sections 52.55 through [52.63] 52.62 of this Part is completed as to such policy and accompanies or is incorporated in such policy when delivered, or unless such appropriate disclosure form is delivered to the applicant at the time application is made and acknowledgment of receipt or certification of delivery of such disclosure form is provided to the insurer[, except that the disclosure form in section 52.63 of this Part shall be provided to the applicant at the time that the application is presented to the prospective applicant and, except for direct response insurance, written acknowledgment of receipt of the requisite disclosure statement shall be obtained from the applicant by the insurer]. The appropriate disclosure form for policies providing hospital coverage which does not meet the standards of section 52.5 or 52.7 of this Part shall be that statement contained in section 52.59 of this Part. The appropriate disclosure form for policies providing coverage which meets the standards of both sections 52.5 and 52.6 of this Part shall be the statement contained in section 52.57 of this Part. The appropriate disclosure form for policies providing coverage which meets the standards of both sections 52.5 and 52.7 or sections 52.6 and 52.7 or sections 52.5, 52.6 and 52.7 shall be the statement contained in section 52.58 of this Part.

Subdivision (c) of section 52.54 is amended to read as follows:

(c) Except certificates providing coverage under sections [52.11,] 52.12, 52.13 and 52.15 of this Part which are subject to the disclosure requirements in sections [52.63,] 52.65 and 52.66 of this Part, no certificate of insurance covering persons resident in this State shall be used in conjunction with a group or blanket accident and health insurance policy delivered or issued for delivery in this State unless incorporated in or accompanied by:

Subdivision (d) of section 52.54 is repealed.

Section 52.63 is repealed.

I, James J. Wrynn, Superintendent of Insurance of the State of New York, do hereby certify that the foregoing is the Forty-second Amendment to Part 52 of Title 11 NYCRR (Regulation No. 62) promulgated by

me on April 19, 2010, pursuant to the authority granted by the federal Social Security Act (42 U.S.C. section 1395ss) and by Sections 201, 301, 3201, 3216, 3217, 3218, 3221, 3231, 3232, and 4235, and Article 43 of the Insurance Law to take effect upon publication in the State Register.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed regulation was published in the State Register on February 24, 2010. No other publication or prior notice is required by statute.

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James J. Wrynn  
Superintendent of Insurance

April 19, 2010