



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

April 19, 2017

**TO: All Insurers Authorized to Write Accident and Health Insurance in New York State, Article 43 Corporations, Health Maintenance Organizations, Student Health Plans Certified Pursuant to Insurance Law § 1124, and Municipal Cooperative Health Benefit Plans all**

**RE: Guidance Regarding Risk Adjustment Regulation and Filing 2018 Rates**

We appreciate insurers' input and cooperation in working with DFS regarding the premium rate application process. As you know a stable health insurance marketplace is of paramount concern for all of us, regulators, insurers, providers and consumers alike. In that regard, DFS has endeavored to create a level and fair playing field, protect solvency and promote competition. These overarching goals have been the foundation of our regulatory oversight and guidance set forth below.

In anticipation of insurers filing their 2018 premium rate applications for the individual and small group health insurance policies, DFS provides the following information and guidance.

- 1. Guidance Regarding DFS Emergency Market Stabilization Regulation for Plan Year 2017 (11 NYCRR 361.9).** Attached is guidance as to DFS's implementation of the emergency market stabilization regulation (11 NYCRR 361.9). The guidance sets forth the rationale and mechanics of the market stabilization mechanism for the 2017 plan for the small group market. Based on reasonable actuarial assumptions and all available information regarding the New York small group market for the 2017 plan year, the Superintendent has determined that a 30 percent uniform percentage adjustment will, absent extraordinary circumstances, be used in applying the market stabilization mechanism for the 2017 plan year.
- 2. Proposed Regulation for DFS Market Stabilization Mechanism for Plan Year 2018 and Beyond.** DFS will be promulgating a proposed regulation that sets forth the DFS market stabilization mechanism for plan years 2018 and beyond. The mechanics of the stabilization pool are much the same as the emergency regulation for plan year 2017, and it will apply to both the individual and small group markets. For plan year 2018, the uniform percentage adjustment for the individual and small group markets is expected to be, but may not exceed, 26 percent of the amount to be received from the federal risk adjustment program, in addition to the 14 percent adjustment due to CMS's removal of non-claims based administrative expenses from the federal risk adjustment calculation. (Note that the 14 percent adjustment due to CMS's removal of non-claims

based administrative expenses from the federal risk adjustment calculation is not applicable to the DFS market stabilization for the small group market for plan year 2017 (11 NYCRR 361.9)).

3. **Guidance for 2018 Premium Rate Development.** For the purpose of developing 2018 premium rates, specifically assumptions regarding liabilities or receipts related to risk adjustment transfers, insurers should assume that DFS will make a uniform adjustment to the anticipated final 2018 aggregate federal risk adjustment pool transfers of 26 percent, in addition to the anticipated 14 percent adjustment based on CMS's decision to remove non-claims based administrative expenses from the risk adjustment formula.
  
4. **Status of the Affordable Care Act.** As you know, the United States Congress has not passed any legislation concerning the Affordable Care Act (ACA) and, therefore, it remains the law, notwithstanding continued statements by some that are designed to destabilize the healthcare insurance market. For the purposes of calculating 2018 health insurance premiums for the individual and small group markets, insurers should assume that there will be no changes to the ACA. Insurers are instructed to file their rate applications under that assumption.

Very truly yours,



Troy Gechsner  
Deputy Superintendent for Health