

**NEW YORK STATE  
INSURANCE DEPARTMENT**

**TWENTY-NINTH AMENDMENT TO REGULATION NO. 62  
(11 NYCRR 52)**

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

I, Gregory V. Serio, Superintendent of Insurance of the State of New York, pursuant to the authority granted by Sections 201, 301, 3201, 3216, 3217, 3218, 3221, 3231, 3232, 3233, 4235, 4237 and Article 43 of the Insurance Law, do hereby promulgate the following Twenty-Ninth 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, to read as follows:

(Matter in brackets is deleted; new matter is underlined)

Subdivisions (a), (b), (c), (d), (l), (n), (o), (r), (t), and (u) of Section 52.2 are amended to read as follows:

(a) *Accident and health insurance* means insurance written under sections [46(3) and 453] 1113(a)(3) and 4505 of the Insurance Law.

(b) *Article [IX-C] 43 corporation* means a corporation organized under article [IX-C] 43 of the Insurance Law.

(c) *Blanket insurance* means insurance written under the provisions of section [222] 4237 of the Insurance Law.

(d) *Charges* means the amount billed by the provider for services rendered, including the reimbursement made by article [IX-C] 43 corporations pursuant to the provisions of section 2807 of the Public Health Law.

(l) *Group insurance* means insurance written under the provisions of section [221 or 253(6)] 4235 or 4305 of the Insurance Law.

(n) *Individual insurance* means insurance written under the provisions of section [164, 253(1)-(5) or 453] 3216, 4304 or 4505 of the Insurance Law.

(o) *Insurer* means a commercial insurance carrier, fraternal benefit society and an article [IX-C] 43 corporation.

(r) *Member hospital* means any hospital with whom an article [IX-C] 43 corporation has an agreement with respect to the rendering of services to its subscribers.

(t) *Participating physician* means any duly licensed physician with whom an [IX-C] 43 corporation has an agreement with respect to the rendering of services to its subscribers.

(u) *Policy* means the totality of the contractual relationship between an insurer and insured, and includes subscriber contracts issued by article [IX-C] 43 corporations.

The opening paragraph of Section 52.5 is amended to read as follows:

*Basic hospital insurance* is an insurance policy which provides coverage subject to no deductible in excess of \$500 for a period of not less than 60 days for any continuous hospital confinement of each covered person for services rendered while confined in a hospital (except as to subdivision (c) of this section) or, in the case of an article [IX-C] 43 corporation, for services rendered while confined in a member hospital, for necessary treatment because of sickness or injury for at least:

The opening paragraph of Section 52.6 is amended to read as follows:

*Basic medical insurance* is an insurance policy which provides coverage for services rendered by a physician or, in the case of article [IX-C] 43 corporation, a participating physician, to each covered person for sickness or injury for:

Subdivision (h) of Section 52.16 is amended to read as follows:

(h) No community-rated policy issued by an article [IX-C] 43 corporation, other than a policy providing benefits through a health maintenance organization or its equivalent, and no individual policy, as defined in section 52.2(n) of this Part, shall provide benefits which duplicate benefits recoverable under mandatory automobile no-fault insurance policies unless such benefits are contained in a rider purchased at the option of the contract holder at an appropriate premium.

Paragraph (7) of Section 52.18(b) is amended to read as follows:

(7) Disability benefits conditioned upon hospital confinement shall be considered as hospital, medical or surgical expense benefits for purposes of section [162(5)] 3221(e) of the Insurance Law and any relevant regulations.

Subdivision (f) of Section 52.18 is amended to read as follows:

(f) *Conditions of eligibility. Conditions pertaining to employment* under section [221(2)] 4235(c) of the Insurance Law includes geographic situs of employment, earnings, method of compensation, hours, and occupational duties.

Subdivisions (b), (d) and (i) of Section 52.19 are amended to read as follows:

(b) Any policy in which one-third or more of the total premium is allocable to any combination of hospital, surgical or medical expense benefits shall contain a conversion privilege at least equal to that required under section [162(5)] 3221(e) of the Insurance Law if coverage be terminated pursuant to either paragraph (a)(2) of this section, if the insured is not eligible for coverage under Medicare or, in the case of employer-employee franchise, pursuant to paragraph (a)(3) of this section or, in the case of association franchise, pursuant to paragraph (a)(3), (4), (5), (6) or (8) of this section.

(d) The insurer's right pursuant to paragraphs (a)(4)-(8) of this section to cancel or nonrenew any policy of insurance subject to section [164(6)] 3216(g) of the Insurance Law shall be as prescribed in and limited by section [164(6)] 3216(g) of the Insurance Law and an insurer desiring to cancel or nonrenew for such reasons shall give at least 30 days' notice of such intention to the superintendent. Unless within such period the superintendent objects, the termination or nonrenewal shall be deemed for approved reasons.

(i) No policy shall be delivered or issued for delivery in this State unless it conforms in substance to the provisions of section [164] 3216 of the Insurance Law, or contains provisions which in the opinion of the superintendent are more favorable to policyholders.

Subdivisions (b), (d), (e) and (j) of Section 52.21 are amended to read as follows:

(b) Hospital, surgical and medical expense coverage may be written for authorized groups under the definition of total or partial disability as used in section [222(1)] 4237(a)(1), (2) and (3) of the Insurance Law.

(d) Coordination of benefits provisions may be included in a policy issued under section [222(1)(c)] 4237(a)(3)(C) of the Insurance Law.

(e) Groups defined solely as *guests of the policyholder, employees selected by the policyholder, key men* and others similarly defined are too vague and are not permissible groups under section [222] 4237 of the Insurance Law.

(j) Student blanket health policies are subject to section [162-a] 3221(k)(5) of the Insurance Law. The statutory coverage must be provided for pregnancies which commenced while the insured was covered under the policy, even after all other coverage under the policy is terminated.

The section heading of Section 52.24 is amended to read as follows:

§ 52.24 Rules relating to coverage for the diagnosis and treatment of alcoholism and alcohol abuse in group (including group remittance policies issued by article [IX-C] 43 corporations) and school blanket health insurance policies.

The opening paragraph and subdivision (a) of Section 52.24 are amended to read as follows:

In accordance with sections [162(17) and (17-a)] 3221(l)(6) and (l)(7), and [253(9) and (10)] 4303(k) and (l) of the Insurance Law, the following rules shall apply:

(a) *Definitions.* (1) For the purposes of this section and sections [162(17) and (17-a)] 3221(l)(6) and (l)(7), and [253(9) and (10)] 4303(k) and (l) of the Insurance Law, the following definition shall apply:

(i) *Coverage for inpatient hospital care*, as referred to in the aforementioned sections of the Insurance Law, means reimbursement for hospitalization on an expense-incurred basis.

(2) For the purposes of this section and sections [162(17-a)] 3221(l) and [253(10)] 4303(l) of the Insurance Law, the following definitions shall apply:

(i) *Family members* means those who are covered family members under the insurance policy covering the person receiving or in need of treatment for alcoholism or alcohol abuse.

(ii) *Visits* means the rendering of diagnostic, medical or therapeutic services, including comprehensive visits, day visits or clinic visits as defined in Part 330 of Title 14 of the *Official Compilation of Codes, Rules and Regulations* (regulations of the Division of Alcoholism and Alcohol Abuse governing outpatient facilities). Visits do not include socialization visits.

Paragraphs (2), (9), and (10) of Section 52.24(b) are amended to read as follows:

(2) Proposals by insurers to substitute inpatient days of coverage not otherwise available under the policy for the diagnosis and treatment of alcoholism and alcohol abuse, for outpatient visits for the diagnosis and treatment of alcoholism and alcohol abuse will be reviewed by the superintendent to determine if the proposal complies with the intent of sections [162(17-a) and 253(10)] 3221(1)(7) and 4303(l) of the Insurance Law. In no event may the number of covered outpatient visits in any calendar year be less than 30.

(9) Policies providing indemnity-type benefits and disability income benefits are not policies that provide coverage for inpatient hospital care and are therefore not subject to sections [162(17) and (17-a), 253(9) and (10)] 3221(1)(6) and (1)(7) and 4303(k) and (l) of the Insurance Law and this section.

(10) Policies providing coverage for accidents only are not subject to sections [162(17) and (17-a), 253(9) and (10)] 3221(1)(6) and (1)(7) and 4303(k) and (l) of the Insurance Law and this section.

The opening paragraph and paragraphs (1) and (2) of Section 52.24(d) are amended to read as follows:

(d) Report to the superintendent.

In accordance with sections [162(17) and 253(9)] 3221(1)(6) and 4303(k) of the Insurance Law, the following rules shall apply:

(1) The report must be furnished to the superintendent by all commercial insurers, article [IX-C] 43 corporations and HMO's. Such report should be sent to the Superintendent of Insurance, Agency Building One, 8th Floor, Empire State Plaza, Albany, NY 12257.

(2) The following information should be contained in the report:

(i) the number of insured groups situated in this State that have purchased the inpatient alcoholism coverage set forth in sections [162(17) and 253(9)] 3221(1)(6) and 4303(k) of the Insurance Law;

(ii) the number of insured groups situated in this State that have a level of inpatient alcoholism coverage higher than as set forth in sections [162(17) and 253(9)] 3221(1)(6) and 4303(k) of the Insurance Law;

(iii) the number of persons covered under subparagraph (i) of this paragraph;

(iv) the number of persons covered under subparagraph (ii) of this paragraph; and

(v) the type of insurance, as defined in sections 52.5 through 52.11 of this Part, that includes the inpatient alcoholism coverage.

The opening paragraph and subdivision (e) of Section 52.26 are amended to read as follows:

Subject to sections [164(2)(B)(3), 221(5)(a) and 253(2)] 3216(c), 4235(f), 4304(d), 4304(e)(1), (2) and (3), and 4305(d)(1) of the Insurance Law, the following rules shall apply to provisions with respect to Medicare:

(e) Eligibility for coverage under Medicare by reason of age constitutes a proper basis, under sections [162(5), 164(2)(B)(3), 164(6) and 253] 3221(e), 3216(c), 3216(g), 4303, 4304, 4305 and 4306 of the Insurance Law, for determining overinsurance, or duplication of benefits, for purposes of refusal to renew, refusal to issue a conversion policy and for limiting renewals to the date of eligibility for Medicare.

The opening paragraph of Section 52.40(c) is amended to read as follows:

(c) *Required rate filings for individual insurance including franchise, blanket insurance, and community-rated contracts of article [IX-C] 43 corporations.* The following rules shall apply with respect to rates for individual insurance including franchise, blanket insurance, and community-rated contracts of article [IX-C] 43 corporations:

Subparagraph (vii) of paragraph (2) of Section 52.40(c) is amended to read as follows:

(vii) an outline of the general underwriting rules and methods of marketing the policy form, including, with respect to article [IX-C] 43 corporations, a rule providing that no community-rated contract may be issued to a group whose experience under a group insurance policy with any insurer, including such article [IX-C] 43 corporation indicates a rate in excess of the then current community rate; however, this rule does not apply to a group which does not have a sufficient number of employees or members to qualify, under the article [IX-C] 43 corporation's underwriting rules, for experience rating;

Section 52.40(c)(3) is amended to read as follows:

(3) Every article [IX-C] 43 corporation shall file and maintain current the schedule of allowances used in connection with its contract forms.

Subparagraph (v) of paragraph (1) of Section 52.40(d) is amended to read as follows:

(v) with respect to article [IX-C] 43 corporations, percentage breakdown of the rates to show expected claims costs, expenses, contributions to statutory reserves and surplus;

The opening paragraph and paragraph (4) of Section 52.40(e) are amended to read as follows:

(e) *Required rate filings for group insurance including master group contracts of article [IX-C] 43 corporations.* The following rules shall apply with respect to rates for group insurance including master group contracts of article [IX-C] 43 corporations:

(4) Every article [IX-C] 43 corporation shall file and maintain current the schedule of allowances used in connection with its contract forms.

The opening paragraph of subdivision (g) of Section 52.40 is amended to read as follows:

(g) *Experience-rated group insurance of article [IX-C] 43 corporations.* The following rules shall apply to the adjustment of the rate of premium based on the experience of any contract of master group insurance as provided for under section [253(6)(a)] 4305(a), (b) or (c) of the Insurance Law:

The opening paragraph of subdivision (j) of Section 52.40 is amended to read as follows:

(j) *Group commissions, compensations, fees and allowances.* Schedules of rates of commissions, compensation, fees and allowances required to be filed under section [221(7)] 4235(h) of the Insurance Law shall be filed as part of the group rate manual and shall contain at least the following information:

Section 52.44(b)(3)(ii) is amended to read as follows:

(ii) Such a corrective plan for policies which are not noncancellable shall include a plan utilizing premium reductions, dividends, benefit increases, or any combination of these or other methods such that the disclosure loss ratio can reasonably be expected to be achieved; however, such plan is subject to approval by the superintendent. In most instances, benefit increases may not be included as part of the insurer's plan without offering the alternative option of appropriate premium reduction. Failure to submit such a plan within the required time period will be a violation of this regulation and will subject the insurer to the penalties of section [5] 109 of the Insurance Law.

Section 52.47 is amended to read as follows:

§ 52.47 Monitoring of experience data submitted under section 52.44(a) of this Part.

The superintendent shall monitor the experience data submitted in accordance with section 52.44(a) of this Part, for the purpose of assuring compliance with the minimum loss ratio standards of this Part. If, after considering the data submitted by an insurer in accordance with section 52.44(a), and such other data as may have been furnished, the superintendent finds the applicable loss ratio standard will not be met over the past and future lifetime of the policy form, the superintendent will notify the insurer that a plan for assuring compliance with such applicable minimum loss ratio standard must be submitted within 90 days to the superintendent. The insurer's plan may utilize premium reductions, dividends, benefit increases, premium refunds or credits, or any combination of these or other methods such that the loss ratio standard described can reasonably be expected to be achieved; however, such plan is subject to approval by the superintendent. In most instances, benefit increases may not be included as part of the insurer's plan without offering the alternative option of appropriate premium reduction. Failure to submit such a plan within the required time period will be a violation of this regulation and will subject the insurer to the penalties of section [5] 109 of the Insurance Law.

Subdivisions (f) and (h) of Section 52.51 are amended to read as follows:

(f) No application shall contain an agreement that acceptance of any policy issued upon the application will constitute a ratification of any changes or amendments made by the insurer and inserted in the application, except in conformity with [142(4)] 3204(d) of the Insurance Law.

(h) Applications for policies subject to section [164(3)(B)(4) and (5)] 3216(d)(2)(D) and (E) shall contain a question or questions requiring information with respect to such other insurance.

Paragraphs (2), (3), (4), (5), (6), (7) and (8) of Section 52.70(d) are amended to read as follows:

(2) Blanket health insurance may be written only for groups conforming to the requirements of section [222(1)(c), (e) and (f)] 4237(a)(3)(C), (E), and (F) of the Insurance Law.

(3) Common carriers, taxicab companies, lessors of automobiles, innkeepers and other groups with a high degree of potential customer liability shall be regarded under [paragraph (f)] section 4237(a)(3)(F)(i) of the Insurance Law as groups substantially similar to groups specified under [paragraph (a) of section 221(1)] section 4237(a)(3)(A) of the Insurance Law.

(4) Independent contractors engaged as theatrical groups on tour, orchestras or bands on special engagements, and professional athletes in specific events shall be regarded under [paragraph (f)] section 4237(a)(3)(F)(i) of the Insurance Law as substantially similar to employee-employer groups under [paragraph (b) of section 222(1)] section 4237(a)(3)(B) of the Insurance Law.

(5) Exceptional hazards under [paragraph (b) of section 222(1)] section 4237(a)(3)(B) of the Insurance Law shall include travel policies and policies covering hazardous sports. Coverage for dependents may be included only where the dependent actually participates in the hazards incident to the employment of the employee, as, for example, dependents accompanying the employee on special trips associated with his occupation.

(6) Under section [222(1)(c)] 4237(a)(3)(C) of the Insurance Law, a policy may be issued to a school, school district, board of education or school principal covering students and employees, and dependents (optional). Policies issued to camps, covering campers, organizations sponsoring youth programs, covering youth groups (e.g., boy scouts, girl scouts), youth sports groups or students participating in special events, such as tours, shall be regarded as substantially similar to the listed groups pursuant to section [222(1)(f)] 4237(a)(3)(F)(i) of the Insurance Law.

(7) Under section [222(1)(d)] 4237(a)(3)(D) of the Insurance Law, groups of fire departments, auxiliaries, ambulance corporations, first aid rescue squads and volunteer police departments will be considered as substantially similar to the listed groups pursuant to section [222(1)(f)] 4237(a)(3)(F)(i) of the Insurance Law. Coverage may be provided for any work connected with the activity for which the organization was founded, including fund-raising drives and participation in volunteer fire meets. Coverage for bystanders drafted into emergency service, and members of other departments volunteering for emergency service may be included.

(8) Nothing contained herein shall preclude an application under section [222(1)(f)] 4237(a)(3)(F) of the Insurance Law for a discretionary ruling of the superintendent regarding a substantially similar group other than as described herein.

The opening paragraph of Section 52.90(c) is amended to read as follows:

Section 52.24 of this Part shall apply to group (including group remittance policies issued by article [IX-C] 43 corporations) and school blanket health insurance policies which provide coverage for inpatient hospital care, as follows:

I, GREGORY V. SERIO, Superintendent of Insurance of the State of New York, do hereby certify that the foregoing Twenty-Ninth Amendment to 52 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 62) was duly adopted by me on this day pursuant to the authority granted by Sections 201, 301, 3201, 3216, 3217, 3218, 3221, 3231, 3232, 3233, 4235, 4237 and Article 43 of the Insurance Law, to take effect upon publication in the State Register.

A prior notice of this regulation amendment was published in the State Register on May 15, 2002 as a Notice of Proposed Rulemaking. No other publication or prior notice is required by statute.

---

**Gregory V. Serio**  
**Superintendent of Insurance**

August 1, 2002