

**NEW YORK STATE  
INSURANCE DEPARTMENT  
THIRD AMENDMENT TO REGULATION NO. 171  
(11 NYCRR 362)  
THE HEALTHY NEW YORK PROGRAM**

I, Eric R. Dinallo, Superintendent of Insurance, pursuant to the authority granted by sections 201, 301, 1109, 3201, 3217, 3221, 4235, 4303, 4304, 4305, and 4326 of the Insurance Law of the State of New York, do hereby promulgate the following Third Amendment to Part 362 of Title 11 of the Official Compilation of Codes, Rules and Regulations (Regulation No. 171), to take effect upon publication in the State Register, to read as follows:

**ALL NEW MATTER**

New subdivisions (d), (e) and (f) are added to section 362-2.7 to read as follows:

§ 362-2.7 Healthy New York benefit adjustments.

(d) Beginning January 1, 2007, qualifying health insurance contracts shall include a benefit for up to forty post-hospital or post-surgical home health care visits per calendar year.

(e) Beginning January 1, 2007, qualifying health insurance contracts shall include a benefit for up to thirty post-hospital or post-surgical physical therapy visits per calendar year.

(f) Beginning January 1, 2007, qualifying health insurance contracts shall include a benefit for diagnostic screening for prostatic cancer consistent with the benefit set forth in section 4303(z-1) of the Insurance Law.

A new section 362-2.8 is added to read as follows:

§ 362-2.8 High deductible health plan under the Healthy New York program.

(a) For purposes of this section:

(1) "High deductible health plan" shall mean a qualifying health insurance contract with a plan year deductible of at least \$1,150 for individual coverage and \$2,300 for family coverage. Out-of-pocket expenses, including the deductible and copayments, shall be capped at \$5,250 for individual coverage and \$10,500 for family coverage for the plan year.

(2) "Family coverage" means any coverage that is not self-only.

(b) Effective January 1, 2007, every health maintenance organization and insurer participating in the Healthy New York program shall offer a high deductible health plan with a plan year deductible of \$1,150 for individual coverage and \$2,300 for family coverage to qualifying small employers and qualifying individuals under the Healthy New York program in connection with a Health Savings

Account (hereinafter "HSA") authorized by the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (Pub. L. No. 108-173). The health maintenance organization or insurer must provide qualifying small employers and qualifying individuals that select a high deductible health plan with a separate disclosure statement which prominently discloses the existence of the deductible.

(c) Health maintenance organizations and participating insurers may also offer additional high deductible health plans with deductibles exceeding the minimum amounts set forth in subdivision (a) of this section in connection with qualifying health insurance contracts. Any such additional options must contain the cap on out-of-pocket expenses set forth in subdivision (a) of this section.

(d) When necessary to meet the federal minimums for a high deductible health plan, each of the dollar amounts referred to in subdivision (a) of this section shall be adjusted by an amount which is consistent with the automatic cost-of-living adjustment as set forth in section 223(g) of the Internal Revenue Code, 26 USC section 223.

(e) The plan year deductible shall not apply to those services described in section 4326(d)(7) and (8) of the Insurance Law, prostatic cancer screenings, or routine prenatal care. Health maintenance organizations and participating insurers may also exempt from the deductible such other preventive services which would not jeopardize the eligibility of the high deductible health plan to be used in conjunction with an HSA.

(f) The calendar year prescription drug deductible set forth in section 4326(e)(5) of the Insurance Law shall not be applied in addition to the overall plan year deductible for the high deductible health plan.

(g) At the time of application, the health maintenance organization or participating insurer shall obtain a certification that the applicant or their employees, as appropriate, intend to establish an HSA, or if applicable, HSAs. At the time of annual recertification, the qualifying employer or individual shall submit a recertification confirming the status of the HSA or HSAs.

(h) A small employer or individual may choose between a high deductible health plan or a qualifying health insurance contract at the time of enrollment. Once enrolled, any change from one type of plan to another may occur only at the time of the annual recertification.

## CERTIFICATION

I, Eric R. Dinallo, Superintendent of Insurance of the State of New York, do hereby certify that the foregoing is the Third Amendment to Part 362 of Title 11 of the Official Compilation and Codes, Rules, and Regulations of the State of New York (Regulation No. 171), entitled "The Healthy New York Program & The Direct Payment Stop Loss Relief Program," which was duly adopted by me on the date entered below, pursuant to the authority granted by sections 201, 301, 1109, 3201, 3217, 3221, 4235, 4303, 4304, 4305 and 4326 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 amendment was published in the State Register on August 22, 2007. No other publication or prior notice is required by statute.

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Eric R. Dinallo  
Superintendent of Insurance

October 17, 2007