

NEW YORK STATE
INSURANCE DEPARTMENT
REGULATION 183
(11 NYCRR 56)

HEALTH INSURANCE CLAIMS PROCESSING AND PROCEDURE

I, Eric R. Dinallo, Superintendent of Insurance of the State of New York, pursuant to the authority granted by Sections 201, 301, 1109, 3201, 3216, 3217, 3221, 4235, 4303, 4304, 4305 and 4802 and Article 49 of the Insurance Law, do hereby promulgate a new Part 56 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation 183) to take effect upon publication in the State Register, to read as follows:

(ALL MATERIAL IS NEW)

A new Part 56 is added to read as follows:

Section 56.0 Preamble. Section 52.16(c)(5) of Part 52 of this Title (Regulation 62), permits insurers and health maintenance organizations (HMOs) that are required to provide coverage for surgical services, to exclude coverage of cosmetic surgery. Part 52 does not define cosmetic surgery, but does provide examples of two types of reconstructive surgeries that may never be considered cosmetic. Subsequent to the promulgation of Part 52, Title I and Title II of Article 49 of the Insurance Law and Public Health Law were enacted that require medical necessity denials to be subject to utilization review and external appeal. The Insurance Department has found inconsistencies among insurers and HMOs as to when denials of surgery are considered medical necessity denials and subject to utilization review and external appeal. Section 56.3 of this Part and an amended section 52.16(c)(5) of Part 52 of this Title clarify that, whenever surgery is a covered benefit under certain policies, a determination that the surgery is cosmetic is a medical necessity determination subject to the utilization review and external review requirements of Titles I and II of Article 49 of the Insurance Law and Public Health Law, except in certain cases when the claim or request for surgery is identified by one of the codes in subdivision (f) of section 56.3 of this Part and is submitted without medical information.

Section 56.1 Applicability. This Part shall be applicable to policies that provide hospital, surgical or medical expense coverage.

Section 56.2 Definitions. The following words or terms shall have the following meanings when used in this Part:

(a) *Health care professional* means an appropriately licensed, registered or certified health care professional pursuant to title eight of the education law or a health care professional comparably licensed, registered or certified by another state.

(b) *Health care provider* means a health care professional or a facility licensed pursuant to article 28, 36, 44 or 47 of the public health law or a facility licensed pursuant to article 19, 23, 31 or 32 of the mental hygiene law.

(c) *Health plan* means an insurer or health maintenance organization (HMO) that has issued a policy that provides hospital, surgical or medical expense coverage.

(d) *Medical information* means any medical data, written explanation from a health care professional, or medical record.

Section 56.3 Claim review requirements for surgical services.

(a) A claim or request for coverage of reconstructive surgery when such service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part, and reconstructive surgery because of congenital disease or anomaly of a covered dependent child that has resulted in a functional defect shall not be considered by a health plan to be cosmetic. Reconstructive surgery may however be reviewed for medical necessity subject to the requirements of Title I and Title II of Article 49 of the Insurance Law or Public Health Law.

(b) A claim or request for coverage of surgery other than for the surgical services described in subdivision (a) or (c) of this section that is considered by a health plan to be cosmetic shall be reviewed for medical necessity subject to the requirements of Title I and Title II of Article 49 of the Insurance Law or Public Health Law.

(c) A claim or request for coverage of surgery, other than a request for pre-authorization, that is solely identified by one of the codes in subdivision (f) of this section and is submitted to a health plan without any accompanying medical information, may be denied by a health plan as cosmetic without subjecting the request to the requirements of Title I and Title II of Article 49 of the Insurance Law or Public Health Law, provided that:

(1) notice of the denial includes a clear statement describing the basis for the denial;

(2) notice of the denial includes a statement that the insured has a right to a medical necessity review if the insured or the insured's health care provider believes the claim or request involves issues of medical necessity and submits medical information;

(3) if a medical necessity review is requested and medical information is submitted, the health plan treats the request as a utilization review appeal pursuant to section 4904 of the Insurance Law or Public Health Law; and

(4) if the health plan denies coverage of the procedure after receipt of medical information, the health plan issues a final adverse determination in compliance with section 4904(c) of the Insurance Law and section 410.9(e) of Part 410 of this Title (Regulation 166) or section 4904(3) of the Public Health Law and 10 NYCRR 98-2.9(e), as applicable.

(d) If an initial claim or request for a procedure listed in subdivision (f) of this section is submitted to a health plan with accompanying medical information, the claim or request shall be reviewed in compliance with Title I and Title II of Article 49 of the Insurance Law or Public Health Law.

(e) If an initial claim or request for a procedure listed in subdivision (f) of this section is submitted to a health plan as a pre-authorization request without accompanying medical information, the necessary information shall be requested as required by section 4905(k) of the Insurance Law or section 4905(11) of the Public Health Law and the claim or request shall be reviewed in compliance with Title I and Title II of Article 49 of the Insurance Law or Public Health law.

(f). Common Procedural Terminology (CPT code©) and Description

11200	Removal of skin tags, multiple fibrocutaneous tags, any area; up to and including 15 lesions
11201	Removal of skin tags; each additional 10 lesions
11950	Subcutaneous injection of filling material (eg, collagen); 1 cc or less
11951	Subcutaneous injection of filling material (eg, collagen); 1.1 to 5.0 cc
11952	Subcutaneous injection of filling material (eg, collagen); 5.1 to 10.0 cc
11954	Subcutaneous injection of filling material (eg, collagen); over 10.0 cc
15775	Punch graft for hair transplant; 1 to 15 punch grafts
15776	Punch graft for hair transplant; more than 15 punch grafts
15780	Dermabrasion; total face (e.g. for acne scarring, fine wrinkling, rhytids, general keratosis)
15781	Dermabrasion, segmental, face
15782	Dermabrasion, regional, other than face
15783	Dermabrasion, superficial, any site, (eg, tattoo removal)
15786	Abrasion; single lesion (eg, keratosis, scar)
15787	Abrasion; each additional four lesions or less
15788	Chemical peel, facial; epidermal
15789	Chemical peel, facial; dermal
15790	Chemical peel; total face
15791	Chemical peel; face, hand or elsewhere
15792	Chemical peel, nonfacial; epidermal
15793	Chemical peel, nonfacial; dermal
15810	Salabrasion; 20 sq cm or less
15811	Salabrasion; over 20 sq cm
15819	Cervicoplasty
15820	Blepharoplasty, lower eyelid;
15821	Blepharoplasty, lower eyelid; with extensive herniated fat pad
15824	Rhytidectomy; forehead
15825	Rhytidectomy; neck with platysmal tightening (platysmal flap, P-flap)
15826	Rhytidectomy; glabellar frown lines
15828	Rhytidectomy; cheek, chin, and neck
15829	Rhytidectomy; superficial musculoaponeurotic system (SMAS) flap
15832	Excision, excessive skin and subcutaneous tissue (including lipectomy); thigh
15833	Excision, excessive skin and subcutaneous tissue (including lipectomy); leg
15834	Excision, excessive skin and subcutaneous tissue (including lipectomy); hip
15835	Excision, excessive skin and subcutaneous tissue (including lipectomy); buttock
15836	Excision, excessive skin and subcutaneous tissue (including lipectomy); arm
15837	Excision, excessive skin and subcutaneous tissue (including lipectomy); forearm or hand
15838	Excision, excessive skin and subcutaneous tissue (including lipectomy); submental fat pad

15839	Excision, excessive skin and subcutaneous tissue (including lipectomy); other area
15876	Suction assisted lipectomy; head and neck
15877	Suction assisted lipectomy; trunk
15878	Suction assisted lipectomy; upper extremity
15879	Suction assisted lipectomy; lower extremity
17340	Cryotherapy (CO ₂ slush, liquid N ₂) for acne
17360	Chemical exfoliation for acne (eg, acne paste, acid)
17380	Electrolysis epilation, each ½ hour
19316	Mastopexy
19355	Correction of inverted nipples
21120	Genioplasty; augmentation (autograft, allograft, prosthetic material)
30430	Rhinoplasty, secondary; minor revision (small amount of nasal tip work)
36468	Single or multiple injections of sclerosing solutions, spider veins (telangiectasia); limb or trunk
36469	Single or multiple injections of sclerosing solutions, spider veins (telangiectasia); face
36470	Injection of sclerosing solution; single vein
36471	Injection of sclerosing solution; multiple veins, same leg
69090	Ear piercing
69300	Otoplasty, protruding ear, with or without size reduction
S0800	Laser in situ keratomileusis
S0810	Photorefractive keratectomy
S0812	Phototherapeutic keratectomy
65760	Keratomileusis
65765	Keratophakia
65767	Epikeratoplasty
65771	Radial keratotomy

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I, Eric R. Dinallo, Superintendent of Insurance of the State of New York, do hereby certify that the foregoing is a new Part 56 of Title 11 of the Official Compilation of Codes, Rules and Regulations (Regulation 183), entitled “Health Insurance Claims Processing and Procedure,” promulgated by me on October 18, 2007, pursuant to the authority granted by 201, 301, 1109, 3201, 3216, 3217, 3221, 4235, 4303, 4304, 4305 and 4802 and Article 49 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 rule was published in the State Register on August 15, 2007. No other publication or prior notice is required by statute.

Eric R. Dinallo
Superintendent of Insurance

October 18, 2007

