

INSURANCE DEPARTMENT OF THE STATE OF NEW YORK
40th 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, Eric R. Dinallo, Superintendent of the Insurance Department of the State of New York, pursuant to the authority granted by Sections 201, 301, 1109, 3216, 3221, and Article 43 of the Insurance Law of the State of New York, do hereby promulgate the 40th amendment to Part 52 of Chapter IX of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 62), to take effect on July 15, 2009, to read as follows:

(MATTER UNDERLINED IS NEW)

Section 52.23(r) is amended to read as follows:

(r) *Right of recovery.* Subject to the provisions of Section 217-2.2(c) of this Title (Regulation No. 178).

(1) If the amount of the payments made by an insurer is more than it should have paid under its COB provision, it may recover the excess from one or more of:

- (i) the persons it has paid or for whom it has paid;
- (ii) insurance companies; or
- (iii) other organizations.

(2) A secondary plan that provides benefits in the form of services may recover the reasonable cash value of providing the services from the primary plan, to the extent that benefits for the services are covered by the primary plan and have not already been paid or provided by the primary plan. Nothing in this subdivision shall be interpreted to require a plan to reimburse a covered person in cash for the value of services provided by a plan that provides benefits in the form of services.

I, Eric R. Dinallo, Superintendent of Insurance of the State of New York, do hereby certify that the foregoing is the fortieth amendment to Part 52 of Chapter IX of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 62), entitled "Minimum Standards For Form, Content And Sale Of Health Insurance, Including Standards Of Full And Fair Disclosure", promulgated by me on March 12, 2009, pursuant to the authority granted by Sections 201, 301, 1109, 3216, 3221, and Article 43 of the Insurance Law, to take effect on July 15, 2009.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed amendment was published in the State Register on December 24, 2008. No other publication or prior notice is required by statute.

Eric R. Dinallo
Superintendent of Insurance

March 12, 2009