

**NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
PROPOSED
THIRTY-THIRD AMENDMENT TO 11 NYCRR 68
(INSURANCE REGULATION 83)**

CHARGES FOR PROFESSIONAL HEALTH SERVICES

I, Maria T. Vullo, Superintendent of Financial Services, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301, 2601, 5221 and Article 51 of the Insurance Law, do hereby promulgate the following Thirty-Third Amendment to Part 68 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 83), to take effect 90 days after publication in the State Register, to read as follows:

(NEW MATTER IS UNDERSCORED; MATTER IN BRACKETS IS DELETED)

Section 68.6 is amended to read as follows:

Section 68.6 Health services performed outside New York State.

(a)(1) If a professional health service reimbursable under [section 5102(a)(1) of the] Insurance Law section 5102(a)(1) is performed outside [New York] this State, the [permissible charge] amount that the insurer shall reimburse for [such] the service shall be the prevailing fee in the geographic location of the provider with respect to services:

(i) that constitute emergency care;

(ii) provided to an eligible injured person that is not a resident of this State, or

(iii) provided to an eligible injured person that is a resident of this State who is outside this State for a continuous period of at least fourteen days for reasons unrelated to the treatment.

(2) For purposes of this subdivision, *emergency care* means all medically necessary treatment of a traumatic injury or a medical condition manifesting itself by acute symptoms of sufficient severity such that absence of immediate attention could reasonably be expected to result in: death; serious impairment to bodily functions; or serious dysfunction of a bodily organ or part. Emergency care shall include all medically necessary care immediately following an automobile accident, including immediate pre-hospitalization care, transportation to a hospital or trauma center, emergency room care, surgery, critical and acute care. Emergency care extends during the period of initial hospitalization until the patient is discharged from acute care by the attending physician. Emergency care shall be presumed when medical care is initiated at a hospital within 120 hours of the accident.

(b) If a professional health service reimbursable under Insurance Law section 5102(a)(1) is performed outside this State with respect to an eligible injured person that is a resident of this State, the amount that the insurer shall reimburse for the service, except as provided in subdivision (a) of this section, shall be the fee set forth in the region of this State that has the highest value in the fee schedule for such services.

(c) Notwithstanding anything else in this subdivision, an insurer shall not reimburse an amount for a service that exceeds the amount that the provider is legally permitted to charge under the laws of the jurisdiction where the services are provided.