

Assessment of public comments for the Second Amendment to 11 NYCRR 101 (Insurance Regulation 164).

The New York State Department of Financial Services (“Department” or “DFS”) received one comment, in response to the Department’s publication of the proposed rule in the New York State Register, from a law firm that represents an entity, that is certified by the New York State Department of Health (“DOH”) as both an accountable care organization (“ACO”) and an independent practice association (“IPA”). The commenter supports the proposed amendment because ACOs that accept downstream prepaid capitation from insurers or health maintenance organizations (“HMOs”) should be treated the same as IPAs that accept such risk. The commenter further stated that the proposed amendment will help to promote the growth and development of ACOs, and achieve the regulatory goals of both DFS and DOH.

The Department agrees with the commenter’s assessment that the proposed amendment treats ACOs and IPAs that enter into financial risk transfer arrangements with insurers or HMOs consistently. The Department further agrees that the proposed amendment will help to promote the growth and development of ACOs (consistent with the legislative goals expressed in Public Health Law § 2999-n of reducing health care costs, promoting effective allocation of health care resources, and enhancing the quality and accessibility of health care) and ensure that the regulatory goals of both DFS and DOH are met.