

**NEW YORK STATE  
DEPARTMENT OF FINANCIAL SERVICES  
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 lower of the amount charged by the provider and 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, at the time of treatment, is residing in the jurisdiction where the treatment is being rendered for reasons unrelated to the treatment.

(2) For purposes of this subdivision, *emergency care* means all medically necessary treatment initiated within 48 hours of a motor vehicle accident for a traumatic injury or a medical condition resulting from the accident, which injury or condition manifests 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. Medically necessary treatment shall include 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 the hospital.

(b) Except as provided in subdivision (a) of this section, 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 shall be the lowest of:

(1) the amount of the fee set forth in the region of this State that has the highest applicable amount in the fee schedule for that service;

(2) the amount charged by the provider; and

(3) the prevailing fee in the geographic location of the provider.

(c) If the jurisdiction in which the treatment is being rendered has established a fee schedule for reimbursing health services rendered in connection with claims for motor vehicle-related injuries and the fee schedule applies to the service being provided, the prevailing fee amount specified in subdivisions (a) and (b) of this section shall be the amount prescribed in that jurisdiction's fee schedule for the respective service.



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

I, Maria T. Vullo, Superintendent of Financial Services, do hereby certify that the foregoing is the 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), entitled "Charges for Professional Health Services", signed by me on September ~~22~~, 2017, 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, to take effect 90 days after 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 September 28, 2016, and a revised proposed amendment was published in the State Register on May 24, 2017. No other publication or prior notice is required by statute.

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Maria T. Vullo  
Superintendent of Financial Services

Date: September ~~22~~, 2017