

Assessment of Public Comments for the Forty-Ninth Amendment to 11 NYCRR 52 (Insurance Regulation 62)

The Department of Financial Services (“Department”) received several letters from the public, health care professionals and a working group consisting of medical providers, public health professionals and institutions, advocates and members of the lesbian, gay, bisexual, transgender and gender non-binary communities. All the comments applauded the proposed amendment. The working group submitted several recommendations that its members believe would support individual and system-wide improvements. Specifically, the group asked that the Department: draft a public memo clarifying the complaint and external appeals processes; refine the appeals process to ensure tracking the outcomes of external appeals particularly as it relates to gender affirming care; improve the tracking of denials of gender affirming care; and audit health insurance policies with respect to gender affirming care.

The recommendations made by the working group do not relate directly to the requirements of the amendment but rather generally addresses Department processes or activities that do not need to be addressed by regulation and have been or will be addressed by the Department. For example, the Department has already implemented a more robust tracking system for external appeals services and added a new search category for treatments that are often associated with gender affirming care. The Department has issued several circular letters to provide guidance to insurers with respect to coverage for transgender and gender non-conforming individuals. The Department also continues to ensure compliance via review and approval of all health insurance policy forms and regular market conduct examinations of insurers. A more detailed response is being provided to the working group separately.

Therefore, the Department did not make any changes to its proposed rulemaking to address these recommendations.