

Regulatory Impact Statement for the Fifty-First Amendment to 11 NYCRR 52 (Insurance Regulation 62).

1. Statutory authority: Financial Services Law (“FSL”) Sections 202 and 302, General Municipal Law Section 205-cc (“GML”), and Insurance Law (“IL”) Sections 301, 3201, 3217, 3221, and 4237.

FSL Section 202 establishes the office of the Superintendent of Financial Services (“Superintendent”).

FSL Section 302 and IL Section 301, in pertinent part, authorize the Superintendent to prescribe regulations interpreting the IL and to effectuate any power granted to the Superintendent in the IL, FSL, or any other law.

GML Section 205-cc requires every legally organized fire district, department or company in this state to provide and maintain for each eligible volunteer firefighter an enhanced cancer disability benefit insurance program.

IL Section 3201 requires policy forms to be approved by the Superintendent.

IL Section 3217 authorizes the Superintendent to issue regulations to establish minimum standards, including standards for full and fair disclosure, for the form, content and sale of accident and health insurance policies.

IL Section 3221 prohibits a policy of group or blanket accident and health insurance, except as provided in IL Section 3221(d), to be delivered or issued for delivery in New York unless it contains in substance the provisions set forth in IL Section 3221 or provisions that are in the opinion of the Superintendent more favorable to the holders of such certificates or not less favorable to the holders of such certificates and more favorable to policyholders.

IL Section 4237 defines a blanket accident policy, a blanket health insurance policy, and a blanket accident and health insurance policy.

2. Legislative objectives: Chapter 334 of the Laws of 2017 added a new GML Section 205-cc requiring every legally organized fire district, department or company in this state to provide eligible volunteer firefighters with enhanced cancer benefits. The benefits may either be self-funded by a fire district, department or company

or be provided in an insurance policy. This amendment accords with the public policy objectives that the Legislature sought to advance in GML Section 205-cc by establishing minimum requirements for policies of volunteer firefighter enhanced cancer insurance.

3. Needs and benefits: GML Section 205-cc requires every legally organized fire district, department or company in this state to provide volunteer firefighter enhanced cancer benefits as specifically provided in section 205-cc to their eligible volunteer firefighters. This amendment is necessary because Insurance Regulation 62 currently does not permit an insurer authorized to write accident and health insurance in New York State to issue policies providing the combination of benefits required under the statute. The amendment also establishes minimum standards for the policies issued pursuant to GML section 205-cc.

4. Costs: This amendment does not impose compliance costs on state or local governments. Although fire districts, departments or companies will have to provide the benefits to their members, it is the statute and not the regulation that imposes such requirement.

Insurers that elect to sell volunteer firefighter enhanced cancer insurance may incur costs to file new policy forms and premium rates with the Superintendent. However, form and rate filing requirements are imposed by the Insurance Law and not by this amendment. Moreover, an insurer does not have to sell the coverage.

The Department of Financial Services (“Department”) may incur costs because the Department will need to review new policy forms and premium rates; however, existing law requires that these filings be made. Any additional costs incurred by the Department should be minimal and the Department expects to absorb the costs in its ordinary budget.

5. Local government mandates: This amendment establishes minimum requirements for policies of volunteer firefighter enhanced cancer insurance and does not impose a new mandate on any local government. Although fire districts, departments or companies will have to provide the benefits to their members, it is the statute and not the regulation that imposes such requirement.

6. Paperwork: Insurers that elect to sell volunteer firefighter enhanced cancer insurance will need to file new policy forms and premium rates with the Superintendent. This filing requirement is an existing requirement imposed by the Insurance Law and not by this amendment.

7. Duplication: This amendment does not duplicate, overlap, or conflict with any existing state or federal rules or other legal requirements.

8. Alternatives: The Department considered not promulgating this amendment. However, the Department is concerned about the negative impact on volunteer firefighters if there are no minimum standards established for the volunteer firefighter enhanced cancer insurance coverage. Moreover, the regulation contained provisions that would have precluded authorized insurers from providing the coverage in New York. As a result, the Department determined that it is necessary to establish minimum standards for this new type of insurance.

9. Federal standards: The amendment does not exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance schedule: The Department is promulgating this amendment on an emergency basis to provide insurers with sufficient time to develop their policy forms and premium rates and receive approval prior to January 1, 2019.

Regulatory Flexibility Analysis for Small Businesses and Local Governments for the Fifty-First Amendment to 11 NYCRR 52 (Insurance Regulation 62).

1. Effect of the rule: This amendment to the regulation applies to insurers authorized to write accident and health insurance in New York State that elect to sell volunteer firefighter enhanced cancer insurance coverage. Although most insurers are not small businesses, industry has asserted previously that certain insurers subject to the regulation are small businesses but has not provided the Department of Financial Services (“Department”) with specific insurers or the number of such entities.

The amendment does not impose any impact, including any adverse impact, or reporting, recordkeeping, or other compliance requirements on any local governments. The basis for this finding is that this amendment is directed at insurers that elect to sell volunteer firefighter enhanced cancer insurance. Although every legally organized fire district, department or company in this state will have to provide the benefits to their members, it is General Municipal Law Section 205-cc and not the regulation that imposes such requirement.

2. Compliance requirements: An insurer that is a small business that elects to sell the insurance would have to file new policy forms and premium rates with the Department. However, form and rate filing requirements are imposed by the Insurance Law and not by this amendment. Moreover, an insurer does not have to provide the coverage.

No local government will have to undertake any reporting, recordkeeping, or other affirmative acts to comply with the amendment.

3. Professional services: It is not anticipated that any insurer that is a small business affected by this amendment will need to retain professional services to comply with this amendment.

4. Compliance costs: This amendment does not impose compliance costs on state or local governments. Although fire districts, departments or companies will have to provide the benefits to their members, the requirement is imposed by statute and not the regulation.

Insurers that elect to sell volunteer firefighter enhanced cancer insurance may incur costs to file new policy forms and premium rates with the Department. However, as noted, form and rate filing requirements are imposed by the Insurance Law and not by this amendment. Moreover, an insurer does not have to provide the coverage.

5. Economic and technological feasibility: No insurer that is a small business affected by this amendment should experience any economic or technological impact as a result of the amendment.

6. Minimizing adverse impact: The Department considered the criteria in State Administrative Procedure Act (“SAPA”) section 202-b(1) but the Department could not design the amendment to minimize any adverse impact on insurers that are small businesses since the minimum requirements for the coverage must be uniform. However, the Department expects the potential benefits of this amendment to outweigh any additional compliance costs that insurers may incur.

7. Small business and local government participation: The Department will comply with SAPA section 202-b(6) by publishing the proposed amendment in the State Register and posting the proposed amendment on the Department’s website.

Statement Setting Forth the Basis for the Finding that the Fifty-First Amendment to 11 NYCRR 52 (Insurance Regulation 62) Will Not Impose Any Adverse Impact on Rural Areas.

The Department of Financial Services finds that this amendment to Part 52, which establishes minimum standards for form, content and sale of volunteer firefighter enhanced cancer insurance authorized by General Municipal Law Section 205-cc, does not impose any additional burden on persons located in rural areas, and will not have an adverse impact on rural areas. This amendment applies uniformly to insurers that do business in both rural and non-rural areas of New York State. This amendment will not impose any additional costs on rural areas.

Statement Setting Forth the Basis for the Finding that the Fifty-First Amendment to 11 NYCRR 52 (Insurance Regulation 62) Will Not Have a Substantial Adverse Impact on Jobs and Employment Opportunities.

The Department of Financial Services finds that this amendment to Part 52 should have no negative impact on jobs or employment opportunities in this state. The amendment establishes minimum standards for volunteer firefighter enhanced cancer insurance policies that, pursuant to GML Section 205-cc, every legally organized fire district, department or company in this state must provide and maintain for each eligible volunteer firefighter unless the fire district, department or company self-funds the benefits.