

**NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
11 NYCRR 364
(INSURANCE REGULATION 214)**

PAID FAMILY LEAVE RISK ADJUSTMENT FUND

I, Linda A. Lacewell, acting Superintendent of Financial Services, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law, Sections 301, 3201, 3217, 3221 and 4235 of the Insurance Law and Sections 204(2)(a), 208(2), and 209(3)(b) of the Workers' Compensation Law, do hereby promulgate new Part 364 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 214), to take effect upon publication of the Notice of Adoption in the State Register, to read as follows:

(ALL MATERIAL IS NEW)

Section 364.1 Preamble.

(a) Pursuant to the authority granted in, among other things, Insurance Law section 4235(n), the superintendent previously determined that family leave benefits provided by issuers shall be subject to a risk adjustment mechanism for calendar year 2018. Additionally, pursuant to section 363.5(b) of this Title, the superintendent in consultation with the chair of the workers' compensation board may determine whether the family leave benefits coverage provided by issuers in subsequent years will be subject to a risk adjustment mechanism.

(b) It is necessary for the implementation of the risk adjustment mechanism established by section 363.5 of this Title that a fund be established to hold the risk adjustment pools required to receive the payments and make the disbursements called for by that section.

Section 364.2 Risk adjustment fund.

There is hereby established within the sole custody of the superintendent, a fund to be called the Paid Family Leave Risk Adjustment Fund, to receive transfers of funds from issuers for those years in which it is determined by the superintendent in consultation with the chair of the workers' compensation board that the family leave benefits coverage provided by issuers will be subject to the risk adjustment mechanism established by section 363.5 of this Title. The moneys so received and deposited in the Paid Family Leave Risk Adjustment Fund shall not be deemed State funds. The superintendent is authorized, in his or her sole discretion, to make disbursements without an appropriation from the Paid Family Leave Risk Adjustment Fund for the purpose of remitting to issuers any moneys due them as a result of the risk adjustment mechanism established by section 363.5 of this Title, and such disbursements shall be made pursuant to that section.



Department of Financial Services

ANDREW M. CUOMO
Governor

LINDA A. LACEWELL
Acting Superintendent

I, Linda A. Lacewell, acting Superintendent of Financial Services, do hereby certify that the foregoing is the new Part 364 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 214), promulgated by me on April 24, 2019, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law, Sections 301, 3201, 3217, 3221 and 4235 of the Insurance Law and Sections 204(2)(a), 208(2), and 209(3)(b) of the Workers' Compensation Law, to take effect upon publication of the Notice of Adoption in the State Register.

Pursuant to the provisions in the State Administrative Procedure Act, prior notice of the proposed regulation was published in the State Register on January 9, 2019. No other publication or prior notice is required by statute.

Linda A. Lacewell
Acting Superintendent of Financial Services

Date: April 24, 2019