

**NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
FIFTY-FOURTH AMENDMENT TO 11 NYCRR 52
(INSURANCE REGULATION 62)**

**MINIMUM STANDARDS FOR FORM, CONTENT AND SALE OF HEALTH INSURANCE,
INCLUDING STANDARDS OF FULL AND FAIR DISCLOSURE**

I, Linda A. Lacewell, Superintendent of Financial Services, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law, Sections 301, 3216, 3217, 3221, and 4303 of the Insurance Law, Chapter 25 of the Laws of 2019, and Part M of Chapter 57 of the Laws of 2019, do hereby promulgate the Fifty-Fourth Amendment to Part 52 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 62), to take effect on January 1, 2020, and to apply to all policies and contracts issued, renewed, or amended on or after that date, to read as follows:

Paragraphs (36) and (37) of Sections 52.17(a) and paragraphs (11) and (12) of Sections 52.18(a) are repealed.

(ALL MATERIAL IS NEW)

Section 52.1(s) is added as follows:

(s) It is the policy of the State of New York to protect women's access to comprehensive and affordable contraception. One of the greatest impediments to gender equality is the inability to make justified reproductive health decisions or decide when and whether to become a parent. Contraception has been a critical tool for women to gain economic and social independence. The use, accessibility, and availability of contraception also reduces the rate of unintended pregnancy and abortion. Irrespective of whether the federal government rolls back access to reproductive health care, the State of New York will protect women's unassailable right to their reproductive freedom. Chapter 25 of the Laws of 2019 and Part M of Chapter 57 of the Laws of 2019 amended Insurance Law sections 3216(i)(17)(E), 3221(l)(16), and 4303(cc) to require every policy that provides medical, major medical, or similar comprehensive type coverage to provide broad contraceptive coverage. Chapter 25 also requires the superintendent to promulgate regulations establishing a process, including time-frames, for an insured, an insured's designee, or an insured's health care provider to request coverage of a non-covered contraceptive drug, device, or product. Section 52.74 of this Part establishes such a process.

Section 52.74 is added as follows:

§ 52.74 Coverage of contraceptive drugs, devices, or products.

(a) Pursuant to Insurance Law sections 3216(i)(17)(E), 3221(l)(16), and 4303(cc), every policy that provides medical, major medical, or similar comprehensive type coverage shall provide coverage for all FDA-approved contraceptive drugs, devices, and other products. Where the FDA has approved one or more therapeutic and pharmaceutical equivalent, as defined by the FDA, versions of a contraceptive drug, device, or product, an insurer shall not be required to include all such therapeutic and pharmaceutical equivalent versions in its formulary, as long as at least one is included and covered without cost-sharing. If the covered contraceptive drug, device, or product is not available or is deemed medically inadvisable, an insurer shall provide coverage

for an alternate therapeutic and pharmaceutical equivalent version of the contraceptive drug, device, or product without cost-sharing.

(b)(1) Pursuant to Insurance Law sections 3216(i)(17)(E), 3221(l)(16), and 4303(cc), an insured, an insured's designee, or an insured's health care provider may submit a request to an insurer for coverage of a non-covered contraceptive drug, device, or product. Such request shall indicate whether the covered contraceptive drug, device, or product is not available or is medically inadvisable for the insured. An insurer may require that the request for coverage be in writing. The insurer shall use the exception form promulgated by the superintendent if the insurer requires a written request.

(2) If the attending health care provider, in his or her reasonable professional judgment, determines that the use of a specific non-covered therapeutic or pharmaceutical equivalent of a drug, device, or product is warranted, the health care provider's determination shall be final.

(3)(i) The insurer shall provide coverage of the non-covered contraceptive drug, device, or product within 72 hours of receipt of a standard request not based on exigent circumstances. The insurer shall provide coverage of the non-covered contraceptive drug, device, or product within 24 hours of receipt of an expedited request based on exigent circumstances. In both situations, the insurer shall provide such coverage without cost-sharing.

(ii) For purposes of this paragraph, "exigent circumstances" means a circumstance under which an insured is suffering from a health condition that may seriously jeopardize the insured's life, health, or ability to regain maximum function or is undergoing a current course of treatment using a non-covered contraceptive drug, device, or product.



Department of Financial Services

ANDREW M. CUOMO
Governor

LINDA A. LACEWELL
Superintendent

I, Linda A. Lacewell, Superintendent of Financial Services, do hereby certify that the foregoing is the Fifty-Fourth Amendment to Part 52 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 62) signed by me on October 22, 2019 pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law, Sections 301, 3216, 3217, 3221, and 4303 of the Insurance Law, Chapter 25 of the Laws of 2019, and Part M of Chapter 57 of the Laws of 2019, to take effect January 1, 2020.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed rule was published in the State Register on July 25, 2018, and a revised proposed rule was published in the State Register on August 14, 2019. No other publication or prior notice is required by statute.

Linda A. Lacewell
Superintendent of Financial Services

Date: October 22, 2019