

**NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
FIRST AMENDMENT TO 11 NYCRR 58
(INSURANCE REGULATION 193)**

**MINIMUM STANDARDS FOR FORM, CONTENT AND SALE OF MEDICARE SUPPLEMENT AND
MEDICARE SELECT 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, 3201, 3216, 3217, 3218, 3221, 3231, and 4235 and Article 43 of the Insurance Law, do hereby promulgate the First Amendment to Part 58 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 193), to take effect January 1, 2020, to read as follows:

(NEW MATTER UNDERLINED, DELETED MATTER IN BRACKETS)

Section 58.1(d)(3) is amended to read as follows:

(3) All applications for Medicare supplement insurance shall include the right to apply for standardized Medicare supplement benefit plans “A” and “B” and either “D” or “G” as well as any of the other Medicare supplement insurance benefit plans permitted by this section. [All applications for Medicare supplement insurance policies and certificates issued on or after June 1, 2010 shall include the right to apply for standardized Medicare supplement benefit plans “A” and “B” and either “C” or “F.”] All applications for Medicare supplement insurance shall also include the right for individuals who first become eligible for Medicare before January 1, 2020 based on age or disability to apply for standardized Medicare supplement benefit plans “C” or “F”, or both plans “C” and “F” if sold by the insurer prior to January 1, 2020.

Section 58.4(b)(3) is amended to read as follows:

(3) Benefit plans shall be uniform in structure, language, designation and format to the standard benefit plans “A”, “B”, “C”, “D”, “F”, [“F+”] high deductible “F+”, “G”, high deductible “G+”, “K”, “L”, “M”, and “N” listed in subdivision [(e)] (c) of this section and conform to the definitions in section 58.1(a) of this Part. Each benefit plan shall be structured in accordance with the format provided in paragraphs (5) and (6) of this subdivision and list the benefits in the order shown in subdivision [(e)] (c) of this section. For purposes of this section, structure, language, and format means style, arrangement and overall content of a benefit.

Section 58.4(b)(5) is amended to read as follows:

(5) Standards for Basic “Core” Benefits Common to Medicare Supplement Insurance Benefit Plans “A”, “B”, “C”, “D”, [“F”] “F”, [“F with High Deductible”] high deductible “F+”, “G”, high deductible “G+”, “M” and “N”. Every issuer of Medicare supplement insurance benefit plans shall make available a policy or certificate including only the following basic “core” package of benefits to each prospective insured.

Section 58.4(b)(6) is amended to read as follows:

(6) Standards for Additional Benefits. The following additional benefits shall be included in Medicare

supplement benefit Plans “B”, “C”, “D”, [“F,”] “F”, [“F with High Deductible”] high deductible “F+”, “G”, high deductible “G+”, “M” and “N” as provided by subdivision (c) of this section.

Section 58.4(b)(7) is amended to read as follows:

(7) (i) Every issuer shall [also] make available both standardized Medicare supplement insurance benefit plans “A” and “B,” as defined in [paragraphs] subdivision (c)(1) and (2) of this section, to each prospective policyholder and certificateholder. [On or after June 1, 2010, the]

(ii) The issuer shall make available to those individuals who first become eligible for Medicare before January 1, 2020 based on age or disability standardized Medicare supplement benefit plans “C”, as described in subdivision (c)(3) of this section, or “F” as described in subdivision (c)(5) of this section. [each prospective policyholder and certificateholder in addition to standardized Medicare supplement insurance benefit plans “A” and “B” as described in paragraphs (c)(1) and (2) of this section, standardized Medicare supplement insurance benefit plans “C”, as described in paragraph (c)(3) of this section or “F” as described in paragraph (c)(5) of this section.]An issuer may make available to prospective policyholders and certificateholders any of the other Medicare supplement insurance benefit plans permitted by this section in addition to benefit plans “A” and “B” [and either “C” or “F”, but not in lieu thereof].

(iii) The issuer shall make available to those individuals who first become eligible for Medicare due to age or disability on or after January 1, 2020 standardized Medicare supplement benefit plans “D”, as described in subdivision (c)(4) of this section or “G” as described in subdivision (c)(7) of this section. An issuer may make available to prospective policyholders and certificateholders any of the other Medicare supplement insurance benefit plans permitted by this section in addition to benefit plans “A” and “B” and either “D” or “G”, but not in lieu thereof.

[(ii)](iv) Every issuer shall permit its policyholders and certificateholders to terminate existing coverage and replace it with any other Medicare supplement insurance benefit plan then being made available to prospective policyholders and certificateholders by the issuer. An issuer may limit changes in coverage initiated by a policyholder or certificateholder to an anniversary date or other regular interval, so long as the interval is not less than once every 12 months.

Section 58.4(c)(6) is amended to read as follows:

(6) Standardized Medicare supplement benefit high deductible plan [“F”] “F+” shall include only the following: 100 percent of covered expenses following payment of the annual high deductible plan [“F”] “F+” deductible, the core benefits as defined in [paragraph] subdivision (b)(5) of this section, plus one hundred percent of the Medicare part A deductible, skilled nursing facility care, one hundred percent of the Medicare part B deductible, one hundred percent of the Medicare part B excess charges, and medically necessary emergency care in a foreign country as each is defined in [subparagraphs] subdivision (b)(6)(i), (iii), (iv), (v), and (vi) of this section. The annual deductible for Medicare supplement benefit high deductible plan [“F”] “F+” shall consist of out-of-pocket expenses, other than premiums, for services covered by plan “F”, and shall be in addition to any other specific benefit deductibles. The basis for the deductible shall be \$1,500 and shall be adjusted annually from 1999 by the Secretary to reflect the change in the Consumer Price Index for all urban consumers for the twelve-month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars. For example, the annual deductible for Medicare supplement benefit high deductible plan [“F”] “F+” for [2010]

2019 is [\$2000] \$2300.

Section 58.4(c)(8) is re-numbered as 58.4(c)(9), and a new section 58.4(c)(8) is added to read as follows:

(8) Standardized Medicare supplement benefit high deductible plan “G+” shall include only the following: 100 percent of the covered expenses following payment of the annual high deductible Plan G+ deductible, the core benefits as defined in subdivision (b)(5) of this section, plus one hundred percent of the Medicare part A deductible, skilled nursing facility care, one hundred percent of the Medicare part B excess charges, and medically necessary emergency care in a foreign country as defined in subdivision (b)(6)(i), (iii), (v), and (vi) of this section. The annual deductible for Medicare supplement benefit high deductible plan “G+” shall consist of out-of-pocket expenses, other than premiums, for services covered by plan “G”, and shall be in addition to any other specific benefit deductibles. The Medicare Part B deductible paid by the beneficiary shall be considered an out-of-pocket expense in meeting the annual high deductible. The basis for the deductible shall be \$1,500 and shall be adjusted annually from 1999 by the Secretary to reflect the change in the Consumer Price Index for all urban consumers for the twelve-month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars.

Newly renumbered subparagraph (x) of section 58.4(c)(9) is amended to read as follows:

(x) cost sharing after out-of-pocket limits. Coverage of one hundred percent of all cost sharing under Medicare parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare parts A and B of [\$4620] \$5560 in [2010] 2019, indexed each year by the appropriate inflation adjustment specified by the Secretary.

Section 58.4(c)(10) is amended to read as follows:

(10) Standardized Medicare supplement plan “L” is mandated by The Medicare Prescription Drug, Improvement and Modernization Act of 2003, and shall include only the following:

(i) The benefits described in subparagraphs [(8)] (i), (ii), (iii), and (ix) of paragraph (9) [this] of this subdivision;

(ii) The benefit described in subparagraphs [(8)] (iv), (v), (vi), (vii) and (viii) of paragraph (9) [this] of this subdivision, but substituting 75 percent for 50 percent; and

(iii) The benefit described in subparagraph (x) of this [subdivision] paragraph, but substituting [\$2310] \$2780 for [\$4620] \$5560.

Section 58.5(a) is revised to read as follows:

(a) The disclosure statement required by an issuer of policies and certificates of Medicare supplement insurance meeting the standards of sections 52.11 and 52.14 of this Title and sections 58.1 and 58.4 of this Part shall consist of four parts: a cover page, premium information, disclosure pages, and charts displaying the features of each benefit plan offered by the issuer. The disclosure statement shall be in the language and format prescribed below in not less than 12-point type. All benefit plans “A” through “D”, “F”, “F+”, “G”, “G+”, and “K” through “N” shall be shown on the cover page, and the plan(s) that are offered by the issuer shall be prominently identified.

Premium information for plans that are offered shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and mode shall be stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant shall be illustrated.

Appendix 12B is withdrawn in its entirety and a new Appendix 12B is added.



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 first amendment to Part 58 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 193), signed by me on November 7, 2019, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law, Sections 301, 3201, 3216, 3217, 3218, 3221, 3231, and 4235 and Article 43 of the Insurance Law, 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 New York State Register on August 7, 2019. No other publication or prior notice is required by statute.

Linda A. Lacewell
Superintendent of Financial Services

Date: November 7, 2019