

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

1. Statutory authority: Financial Services Law (“FSL”) sections 202 and 302 and Insurance Law (“IL”) sections 301 and 3217.

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.

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 and subscriber contracts of insurers or corporations organized under IL Articles 32 and 43 and Public Health Law Article 44 (“issuers”).

2. Legislative objectives: 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 and subscriber contracts of issuers.

This proposed amendment to 11 NYCRR 52 (Insurance Regulation 62) accords with the public policy objectives that the Legislature sought to advance in IL section 3217 by setting forth minimum standards for the content of health insurance identification cards. The amendment requires every issuer to provide a health insurance identification card to the primary insured and to each dependent of the primary insured who is 18 years of age or older within 30 days of the effective date of the insured’s or dependent’s coverage under an accident and health insurance policy that provides coverage for comprehensive hospital, surgical and medical care, except governmental programs approved by the Commissioner of Health, including Medicaid, Children’s Health Insurance Program and Essential Plan. When any information required to be on the card is changed, issuers must provide the primary insured and each dependent of the primary insured who is 18 years of age or older and covered

under the accident and health insurance policy with a new health insurance identification card upon renewal of the policy. The health insurance identification cards must be mailed to the primary insured and to each dependent of the primary insured who is 18 years of age or older; however, if a dependent who is 18 years of age or older resides with the primary insured, the dependent's card may be included in the mailing to the primary insured with the primary insured's card. Health insurance identification cards may be provided electronically, and not by mail, if the insured consents to the electronic delivery.

3. Needs and benefits: Currently, the IL provides for the minimum standards in the form, content and sale of accident and health insurance. The purpose of such minimum standards is to provide reasonable standardization and simplification of coverages to facilitate understanding and comparisons; eliminate provisions that may be misleading or unreasonably confusing; eliminate deceptive practices; eliminate provisions that may be contrary to the health care needs of the public; and eliminate coverages that are of no substantial economic value to the holders. This proposed amendment aligns with the public policy of New York by providing minimum standards for the content of health insurance identification cards, which will ensure greater disclosure of information relating to an insured's health plan, as well as easier access to such information, by standardizing the content of health insurance identification cards.

It was brought to the attention of the Department of Financial Services ("Department") that health insurance identification cards were not adequately disclosing important information related to an insured's health plan, which was causing confusion among insureds and health care providers. With input from providers, issuers and consumer groups, the Department drafted this amendment to eliminate inadequate disclosure and confusion by requiring health insurance identification cards to include certain information relating to an insured's health plan. This amendment will require health insurance identification cards to include information such as the names and identification numbers of the insured and dependents; the name of the issuer providing the coverage; the product or plan name; important telephone numbers; the issuer's website address; and cost-sharing information.

Additionally, to eliminate confusion regarding self-funded plans, this amendment will require health insurance identification cards to include a statement identifying whether the coverage is insured by the issuer or administered by the issuer through a self-funded arrangement.

The Department consulted with the Department of Health and determined that governmental programs, including Medicaid, Children's Health Insurance Program, and Essential Plan, should be exempted from the requirements of this regulation, as the Department of Health already imposes requirements on identification cards for governmental programs.

4. Costs: Issuers may incur costs because they will need to mail new health insurance identification cards to the primary insured and each dependent of the primary insured who is 18 years of age or older and covered under the accident and health insurance policy when any information required to be on the card is changed. However, to mitigate costs to issuers, new cards only need to be provided upon renewal of the policy. Additionally, if a dependent who is 18 years of age or older resides with the primary insured, the dependent's card may be included in the mailing to the primary insured with the primary insured's card. Also, health insurance identification cards may be provided electronically, and not by mail, if the insured consents to electronic delivery.

This amendment will not impose compliance costs on the Department.

This amendment will not impose compliance costs on state or local governments.

5. Local government mandates: This amendment does not impose a new mandate on any county, city, town, village, school district, fire district or other special district.

6. Paperwork: This amendment does not impose any new paperwork or filing requirements on issuers.

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

8. Alternatives: The Department considered several alternatives when drafting this amendment. For example, the effective date of the amendment was originally 90 days after publication of the Notice of Adoption

in the State Register but was changed to 120 days based on stakeholder input. Additionally, the amendment initially required health insurance identification cards to be mailed within 60 days of any change of information, but the final version requires cards to be mailed upon renewal of the policy based upon stakeholder input. Also, an earlier version of the amendment required a card to be mailed within 15 days of the effective date of the coverage, but that was changed to within 30 days of the effective date based on stakeholder input. These changes were made to reduce the compliance burden on issuers while ensuring that updated information is sent to insureds in a timely manner.

The Department previously required health insurance identification cards to include a statement about whether an insured's coverage provides out-of-network benefits in order to help the insured more easily ascertain whether a health plan provides out-of-network benefits. Instead, based upon stakeholder input, the Department decided to require health insurance identification cards to include the coverage type (e.g., point-of-service (POS), health maintenance organization (HMO), exclusive provider organization (EPO), preferred provider organization (PPO), or fee-for-service). This will allow an insured to easily identify whether a health plan provides out-of-network benefits.

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 amendment will take effect 120 days after publication of the Notice of Adoption in the State Register.

Statement as to why a revised Regulatory Flexibility Analysis for Small Businesses and Local Governments (“RFA”) is not required for the revised proposed Fifty-Third Amendment to 11 NYCRR 52 (Insurance Regulation 62).

A revised RFA is not required for the revised proposed Fifty-Third Amendment to 11 NYCRR 52 (Insurance Regulation 62) because the revisions to the regulation do not require a change to the previously published RFA.

Statement as to why a revised Rural Area Flexibility Analysis (“RAFA”) is not required for the revised proposed Fifty-Third Amendment to 11 NYCRR 52 (Insurance Regulation 62).

A RAFA is not required for the revised proposed Fifty-Third Amendment to 11 NYCRR 52 (Insurance Regulation 62) because the revisions to the regulation do not require a change to the previously published RAFA.

Statement as to why a revised Job Impact Statement (“JIS”) is not required for the revised proposed Fifty-Third Amendment to 11 NYCRR 52 (Insurance Regulation 62).

A revised JIS is not required for the revised proposed Fifty-Third Amendment to 11 NYCRR 52 (Insurance Regulation 62) because the revisions to the regulation do not require a change to the previously published JIS.