

**NEW YORK STATE  
DEPARTMENT OF FINANCIAL SERVICES  
SIXTY-FIRST 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 of the State of New York, pursuant to the authority granted by Section 29-A of the Executive Law and Executive Order 202.82, dated December 13, 2020, promulgated thereunder, which was extended by Executive Order 202.100, dated March 31, 2021, and extended further by Chapter 71 of the Laws of 2021, Sections 202 and 302 of the Financial Services Law, and Sections 301, 3216, 3217, 3221, and 4303 of the Insurance Law, do hereby promulgate the Sixty-First 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 upon filing with the Secretary of State, to read as follows:

**(ALL MATERIAL IS NEW)**

**A new section 52.76(b) is added as follows:**

(b)(1) Except as provided in paragraph (2) of this subdivision, a policy that provides hospital, surgical, or medical care coverage, including a grandfathered health plan, shall cover coronavirus disease 2019 (COVID-19) immunizations, and the administration thereof, immediately upon the earliest of the date on which: (i) the advisory committee on immunization practices of the federal centers for disease control issues a recommendation for the COVID-19 immunization; (ii) the United States preventive services task force issues a recommendation with an “A” or “B” rating for the COVID-19 immunization; or (iii) the superintendent determines, in consultation with the commissioner of health, that a policy shall cover the COVID-19 immunization. COVID-19 immunizations, and administration thereof, including any visits necessary to obtain the immunizations, administered at a provider’s office, facility, pharmacy, or other setting, including any provider or location authorized by this State or the federal government to administer or host the administration of the immunization, shall not be subject to annual deductibles, coinsurance, copayments, or any other out-of-pocket cost.

(2) The coverage required under paragraph (1) of this subdivision shall not be limited to COVID-19 immunizations, and the administration thereof, administered by participating providers and shall apply to such immunizations, and the administration thereof, administered by non-participating providers until the expiration of the federally declared public health emergency and the disaster emergency declared by the governor of this State pursuant to Executive Order 202, as extended, unless first rescinded by a concurrent resolution passed by the Legislature pursuant to Ch. 171 of L. 2021.

**Statement of the Reasons for the Emergency Measure  
Sixty-First Amendment to 11 NYCRR 52  
(Insurance Regulation 62)**

The coronavirus disease 2019 (“COVID-19”) has spread to millions of people worldwide, with approximately 1,900,000 confirmed cases in New York State, of which approximately 50,000 have resulted in death. COVID-19 has devastated communities and taken a huge economic toll on New York State. On March 7, 2020, Governor Andrew M. Cuomo issued Executive Order Number 202 declaring a disaster emergency in the State of New York in response to the COVID-19 pandemic and that declaration has been extended. COVID-19 immunizations have been developed that are approximately at least 90% effective against COVID-19, and experts estimate that at least 70% of Americans must receive the COVID-19 immunization in order to achieve herd immunity and stop the spread of this deadly disease. As a result, it is essential that New Yorkers have coverage for COVID-19 immunizations and the administration thereof, including any visits necessary to obtain the immunization, so that there are no barriers for New Yorkers expeditiously obtaining the immunizations. To address this need, the Governor issued Executive Order 202.82 on December 13, 2020, which he extended by Executive Order 202.100 on March 31, 2021 and which is extended further by Chapter 71 of the Laws of 2021, to temporarily modify Insurance Law Sections 3216(i)(17)(E), 3221(l)(8)(E) and (F), and 4303(j)(3) to apply to grandfathered health plans with respect to COVID-19 immunizations.

This amendment requires authorized insurers and health maintenance organizations that issue a policy or contract that provides hospital, surgical, or medical care coverage, including a grandfathered health plan, to provide coverage, with no cost-sharing, of COVID-19 immunizations and the administration thereof immediately upon the earliest of the date on which: (1) the Centers for Disease Control and Prevention’s Advisory Committee on Immunization Practices issues a recommendation for the COVID-19 immunization; (2) the United States Preventive Services Taskforce issues a recommendation with an “A” or “B” rating for the COVID-19 immunization; or (3) the Superintendent of Financial Services (“Superintendent”) determines, in consultation with the Commissioner of Health, that a policy or contract must cover the COVID-19 immunization.

Given the public health implications of COVID-19, it is essential that there are no barriers to New Yorkers accessing COVID-19 immunizations. Failure to ensure coverage of COVID-19 immunizations and the administration thereof could jeopardize the health and safety of the people of New York.

To ensure that there are no barriers to New Yorkers accessing COVID-19 immunizations without cost-sharing, it is imperative that this amendment be promulgated on an emergency basis for the preservation of the public health.



Linda A. Laceywell  
Superintendent of Financial Services

Dated: April 6, 2021



ANDREW M. CUOMO  
Governor

## Department of Financial Services

LINDA A. LACEWELL  
Superintendent

### CERTIFICATION

I, Linda A. Lacewell, Superintendent of Financial Services, do hereby certify that the foregoing is the Sixty-First 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), entitled “Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure,” signed by me on April 6, 2021, pursuant to the authority granted by Section 29-A of the Executive Law and Executive Order 202.82, dated December 13, 2020, promulgated thereunder, which has been extended by Executive Order 202.100, dated March 31, 2021, and extended further by Chapter 71 of the Laws of 2021, Sections 202 and 302 of the Financial Services Law and Sections 301, 3216, 3217, 3221, and 4303 of the Insurance Law, to take effect upon filing of the Notice of Emergency Adoption with the Secretary of State.

Pursuant to Section 202(6) of the State Administrative Procedure Act, the Sixty-First Amendment to 11 NYCRR 52 (Insurance Regulation 62) is being promulgated as an emergency measure. A statement of the specific reasons for the finding of the need for emergency action is attached.

Linda A. Lacewell  
Superintendent of Financial Services

Date: April 6, 2021