**NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES**
**PROPOSED**
**SIXTY-THIRD AMENDMENT TO 11 NYCRR 52**
**(INSURANCE REGULATION 62)**

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

I, Adrienne A. Harris, Acting Superintendent of Financial Services, pursuant to the authority granted by Sections 202, 301, and 302 of the Financial Services Law, Sections 301, 3217, 3217-a, and 4324 of the Insurance Law, Section 4408 of the Public Health Law, and the federal No Surprises Act, do hereby promulgate the following Sixty-Third 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 publication of the Notice of Adoption in the State register, to read as follows:

**(ALL MATERIAL IS NEW)**

**A new section 52.77 is added as follows:**

**§ 52.77 Payment when an issuer provides inaccurate network status information.**

(a) If an insured who is covered under a comprehensive health insurance policy that uses a network of health care providers receives a bill for out-of-network services resulting from an issuer providing inaccurate network status information to an insured, the issuer shall ensure that the insured will incur no greater out-of-pocket costs for the services than would be owed if the insured had received services from a participating provider. The issuer shall apply the copayment, coinsurance or deductible, if any, and out-of-pocket maximum that would have applied had the services been received from a participating provider.

(b) An issuer shall provide network status information to an insured in writing within one business day of the insured requesting the information by telephone.

(c) An issuer provides inaccurate network status information when:

(1) the issuer represents in the provider directory posted on its website that a non-participating provider is participating in the issuer's network;

(2) the issuer provides information, upon an insured's request made by telephone, that a non-participating provider is participating in the issuer's network;

(3) the issuer fails to provide information in writing regarding a specific provider's participating status within one business day of a request from an insured made by telephone; or

(4) the issuer represents in the hard copy provider directory that a provider is participating in the issuer's network and the provider is non-participating as of the date of publication of the hard copy provider directory.

(d) An issuer shall include in its hard copy provider directory a notification that the information contained

in the directory was accurate as of the date of publication of such directory and that an insured should consult the provider directory posted on the issuer's website to obtain the most current provider directory information.

(e) As used in this section:

(1) *Non-participating* means not having an agreement with an issuer with respect to the rendering of health care services to an insured.

(2) *Participating* means having an agreement with an issuer with respect to the rendering of health care services to an insured.

(3) *Issuer* means an insurer licensed to write accident and health insurance in this State, a corporation organized pursuant to Insurance Law Article 43, a municipal cooperative health benefit plan certified pursuant to Insurance Law Article 47, a health maintenance organization certified pursuant to Public Health Law Article 44, and a student health plan certified pursuant to Insurance Law section 1124.

(f) This section shall apply to all policies issued, renewed, modified, or amended on or after the effective date of this section.