

**NEW YORK STATE  
DEPARTMENT OF FINANCIAL SERVICES  
FIFTH AMENDMENT TO 11 NYCRR 39  
(INSURANCE REGULATION 144)**

**MINIMUM STANDARDS FOR THE NEW YORK STATE PARTNERSHIP FOR LONG-TERM CARE  
PROGRAM**

I, Adrienne A. Harris, Superintendent of Financial Services, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law, Sections 301, 1117, 3201, 3217, 3221, 3229, 4235, 4237, and Article 43 of the Insurance Law, and Section 367-f of the Social Services Law, do hereby promulgate the Fifth Amendment to Part 39 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 144) to take effect upon publication of the Notice of Adoption in the State Register, to read as follows:

**(NEW MATTER UNDERSCORED, DELETED MATTER IN BRACKETS)**

**Paragraph 1 of subdivision (b) of section 39.3 is amended as follows:**

(1) Nursing home care. Nursing home care coverage shall be provided for not less than a lifetime maximum total of 36 months for each covered person. A covered person must be permitted to substitute home care benefits for nursing home care benefits on the basis of two home care days for one nursing home day. Coverage of nursing home care shall consist of payment for skilled nursing care, intermediate care, and custodial care in nursing homes of at least \$[274] 387 per day. Payment for nursing home care services may be limited to services rendered in a nursing home licensed by the jurisdiction in which it is located. The minimum nursing home daily benefit shall be increased each year on the first day of January beginning in [2015] 2025. Policies/certificates sold after January 1, [2015] 2025 shall provide benefits at the increased minimum standard in the year sold. Minimum daily benefits for the next 10 years shall be as follows:

- (i) January 1, [2014] 2024 - \$[274] 387 (nursing home), \$[137] 193 (home care - 50 percent);
- (ii) January 1, [2015] 2025 - \$[284] 401 (nursing home), \$[142] 200 (home care - 50 percent);
- (iii) January 1, [2016] 2026 - \$[294] 415 (nursing home), \$[147] 207 (home care - 50 percent);
- (iv) January 1, [2017] 2027 - \$[304] 430 (nursing home), \$[152] 215 (home care - 50 percent);
- (v) January 1, [2018] 2028 - \$[315] 445 (nursing home), \$[157] 222 (home care - 50 percent);
- (vi) January 1, [2019] 2029 - \$[326] 461 (nursing home), \$[163] 230 (home care - 50 percent);
- (vii) January 1, [2020] 2030 - \$[337] 477 (nursing home), \$[168] 238 (home care - 50 percent);
- (viii) January 1, [2021] 2031 - \$[349] 494 (nursing home), \$[174] 247 (home care - 50 percent);
- (ix) January 1, [2022] 2032 - \$[361] 511 (nursing home), \$[180] 255 (home care - 50 percent);

(x) January 1, [2023] 2033 - \$[374] 529 (nursing home), \$[187] 264 (home care - 50 percent).

**Paragraph 1 of subdivision (b) of section 39.4 is amended as follows:**

(1) Nursing home care. Nursing home care coverage shall be provided for not less than a lifetime maximum total of 18 months for each covered person. A covered person must be permitted to substitute home care benefits for nursing home care benefits on the basis of two home care days for one nursing home day. Coverage of nursing home care shall consist of payment for skilled nursing care, intermediate care, and custodial care in nursing homes of at least \$[274] 387 per day. Payment for nursing home care services may be limited to services rendered in a nursing home licensed by the jurisdiction in which it is located. The minimum nursing home daily benefit shall be increased each year on the first day of January beginning in [2015] 2025. Policies/certificates sold after January 1, [2015] 2025 shall provide benefits at the increased minimum standard in the year sold. Minimum daily benefits for the next 10 years shall be as follows:

- (i) January 1, [2014] 2024 - \$[274] 387 (nursing home), \$[137] 193 (home care - 50 percent);
- (ii) January 1, [2015] 2025 - \$[284] 401 (nursing home), \$[142] 200 (home care - 50 percent);
- (iii) January 1, [2016] 2026 - \$[294] 415 (nursing home), \$[147] 207 (home care - 50 percent);
- (iv) January 1, [2017] 2027 - \$[304] 430 (nursing home), \$[152] 215 (home care - 50 percent);
- (v) January 1, [2018] 2028 - \$[315] 445 (nursing home), \$[157] 222 (home care - 50 percent);
- (vi) January 1, [2019] 2029 - \$[326] 461 (nursing home), \$[163] 230 (home care - 50 percent);
- (vii) January 1, [2020] 2030 - \$[337] 477 (nursing home), \$[168] 238 (home care - 50 percent);
- (viii) January 1, [2021] 2031 - \$[349] 494 (nursing home), \$[174] 247 (home care - 50 percent);
- (ix) January 1, [2022] 2032 - \$[361] 511 (nursing home), \$[180] 255 (home care - 50 percent);
- (x) January 1, [2023] 2033 - \$[374] 529 (nursing home), \$[187] 264 (home care - 50 percent).

**Paragraph 1 of subdivision (b) of section 39.5 is amended as follows:**

(1) The policy/certificate shall provide at least a lifetime maximum total of 48 months coverage for each covered person. The policy/certificate may express the requirement for at least a lifetime maximum total of 48 months coverage for each covered person in monetary terms. The monetary expression shall be at least a lifetime maximum total of 1,460 days of coverage for each covered person multiplied by a daily benefit amount of at least \$[274] 387 per day for policies/certificates sold in [2014] 2024. The minimum daily benefit shall be increased each year on the first day of January beginning in [2015] 2025. Policies/certificates sold after January 1, [2015] 2025 shall provide benefits at the increased minimum standard in the year sold. Minimum daily benefits for the next 10 years shall be as follows:

- (i) January 1, [2014] 2024 - \$[274] 387;
- (ii) January 1, [2015] 2025 - \$[284] 401;
- (iii) January 1, [2016] 2026 - \$[294] 415;
- (iv) January 1, [2017] 2027 - \$[304] 430;
- (v) January 1, [2018] 2028 - \$[315] 445;
- (vi) January 1, [2019] 2029 - \$[326] 461;
- (vii) January 1, [2020] 2030 - \$[337] 477;
- (viii) January 1, [2021] 2031 - \$[349] 494;
- (ix) January 1, [2022] 2032 - \$[361] 511;
- (x) January 1, [2023] 2033 - \$[374] 529.

**Paragraph 1 of subdivision (b) of section 39.6 is amended as follows:**

(1) The policy/certificate shall provide at least a lifetime maximum total of 24 months coverage for each covered person. The policy/certificate may express the requirement for at least a lifetime maximum total of 24 months coverage for each covered person in monetary terms. The monetary expression shall be at least a lifetime maximum total of 730 days of coverage for each covered person multiplied by a daily benefit amount of at least \$[274] 387 per day for policies/certificates sold in [2014] 2024. The minimum daily benefit shall be increased each year on the first day of January beginning in [2015] 2025. Policies/certificates sold after January 1, [2015] 2025 shall provide benefits at the increased minimum standard in the year sold. Minimum daily benefits for the next 10 years shall be as follows:

- (i) January 1, [2014] 2024 - \$[274] 387;
- (ii) January 1, [2015] 2025 - \$[284] 401;
- (iii) January 1, [2016] 2026 - \$[294] 415;
- (iv) January 1, [2017] 2027 - \$[304] 430;
- (v) January 1, [2018] 2028 - \$[315] 445;
- (vi) January 1, [2019] 2029 - \$[326] 461;
- (vii) January 1, [2020] 2030 - \$[337] 477;
- (viii) January 1, [2021] 2031 - \$[349] 494;

(ix) January 1, [2022] 2032 - \$[361] 511;

(x) January 1, [2023] 2033 - \$[374] 529.

**Paragraph 1 of subdivision (b) of section 39.7 is amended as follows:**

(1) Nursing home care. Nursing home care coverage shall be provided for not less than a lifetime maximum total of 24 months for each covered person. A covered person must be permitted to substitute home and community-based care benefits or residential care facility benefits for nursing home care benefits on the basis of two home and community-based care or residential care facility service days for one nursing home day. Coverage of nursing home care shall consist of payment for skilled nursing care, intermediate care, and custodial care in nursing homes of at least \$[274] 387 per day. Payment for nursing home care services may be limited to services rendered in a nursing home licensed by the jurisdiction in which it is located. The minimum nursing home daily benefit shall be increased each year on the first day of January beginning in [2014] 2024. Policies/certificates sold on or after January 1, [2015] 2025 shall provide benefits at the increased minimum standard in the year sold. Minimum daily benefits for the years listed below shall be as follows:

(i) January 1, [2014] 2024 - \$[274] 387 (nursing home), \$[137] 193 (residential care facility and home and community-based care - 50 percent);

(ii) January 1, [2015] 2025 - \$[284] 401 (nursing home), \$[142] 200 (residential care facility and home and community-based care - 50 percent);

(iii) January 1, [2016] 2026 - \$[294] 415 (nursing home), \$[147] 207 (residential care facility and home and community-based care - 50 percent);

(iv) January 1, [2017] 2027 - \$[304] 430 (nursing home), \$[152] 215 (residential care facility and home and community-based care - 50 percent);

(v) January 1, [2018] 2028 - \$[315] 445 (nursing home), \$[157] 222 (residential care facility and home and community-based care - 50 percent);

(vi) January 1, [2019] 2029 - \$[326] 461 (nursing home), \$[163] 230 (residential care facility and home and community-based care - 50 percent);

(vii) January 1, [2020] 2030 - \$[337] 477 (nursing home), \$[168] 238 (residential care facility and home and community-based care - 50 percent);

(viii) January 1, [2021] 2031 - \$[349] 494 (nursing home), \$[174] 247 (residential care facility and home and community-based care - 50 percent);

(ix) January 1, [2022] 2032 - \$[361] 511 (nursing home), \$[180] 255 (residential care facility and home and community-based care - 50 percent);

(x) January 1, [2023] 2033 - \$[374] 529 (nursing home), \$[187] 264 (residential care facility and home and community-based care – 50 percent).



KATHY HOCHUL  
Governor

ADRIENNE A. HARRIS  
Superintendent

## CERTIFICATION

I, Adrienne A. Harris, Superintendent of Financial Services, do hereby certify that the foregoing is the Fifth Amendment to Part 39 (Insurance Regulation 144) of Title 11 of the Official Compilation of the Codes, Rules and Regulations of the State of New York, signed by me on December 19, 2023 pursuant to the authority granted by Financial Services Law Sections 202 and 302, Insurance Law Sections 301, 1117, 3201, 3217, 3221, 3229, 4235, 4237, and Article 43, and Social Services Law Section 367-f, to take effect upon the publication of the Notice of Adoption in the State Register.

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 October 11, 2023. No other publication or prior notice is required by statute.

Signed copy filed with Department of State  
Adrienne A. Harris  
Superintendent of Financial Services

Date: December 19, 2023