

**NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
SIXTY-SECOND 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. Laceywell, Superintendent of Financial Services of the State of New York, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301, 3216, 3217, 3217-h, 3221, 4303, 4306-g of the Insurance Law, do hereby promulgate the Sixty-Second 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 the filing of the Notice of Emergency Adoption with the Secretary of State, to read as follows:

(ALL MATERIAL IS NEW)

Section 52.17(d) is added as follows:

(d) Telehealth.

(1) *Telehealth* has the meaning set forth in Insurance Law sections 3217-h and 4306-g and includes audio-only visits.

(2) For the purposes of Insurance Law sections 3217-h and 4306-g, an insurer may engage in reasonable fraud, waste and abuse detection efforts, including to prevent payments for services that do not warrant a separate billable encounter.

Section 52.18(h) is added as follows:

(h) Telehealth.

(1) *Telehealth* has the meaning set forth in Insurance Law sections 3217-h and 4306-g and includes audio-only visits.

(2) For the purposes of Insurance Law sections 3217-h and 4306-g, an insurer may engage in reasonable fraud, waste and abuse detection efforts, including to prevent payments for services that do not warrant a separate billable encounter.

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

Telehealth played an indispensable role in providing quality care to those persons who needed health care services during the COVID-19 pandemic but could not visit their providers in person. As made evident by the COVID-19 pandemic, access to these services should not be limited to in-person or visual requirements. When clinically appropriate, an audio-only visit, such as by telephone, provides an essential form of access for New Yorkers. The availability of audio-only visits allows for more widespread access, particularly for mental health and substance use disorder services, because no visual component is required. Additionally, encouraging people who do not need emergency care to use audio-only telehealth services alleviates the stress that in-person visits put on our health care system. Failure to continue to enable the use of telehealth services through audio-only visits could result in New Yorkers losing access to care they have come to rely on throughout the COVID-19 pandemic, potentially disrupting the health and safety of the people of New York. Further, coverage of audio-only telehealth services is important because some New Yorkers, such as senior citizens, are not able to use video-enabled technology, like Zoom.

This amendment clarifies that an audio-only visit falls within the meaning of telehealth. Additionally, this amendment clarifies that for the purposes of telehealth, an insurer may engage in reasonable fraud, waste, and abuse detection efforts, including efforts to prevent payments for services that do not warrant a separate billable encounter. This amendment is not intended to require coverage of services for which no charge is normally made consistent with 11 NYCRR section 52.16(c)(8). The Department of Financial Services expects every health care plan to reimburse a provider offering telehealth services for audio-only visits when medically necessary.

Given the continuing public health implications related to COVID-19, it is essential that New Yorkers continue to be able to access health care services in a way that limits the spread of COVID-19. It is thus imperative that this amendment be promulgated on an emergency basis for the preservation of public health.



Linda A. Lacewell
Superintendent of Financial Services

Date: July 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-Second 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 July 6, 2021, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301, 3216, 3217, 3217-h, 3221, 4303, and 4306-g 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-Second 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: July 6, 2021