

From: [Edmund Normand](#)
To: [E-OHPSCA-STOPLOSS.EBSA](#)
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Stop loss insurance is being abused to the detriment on plan members in personal injury cases in ERISA cases. There must be some relief because these practices hurt plan members. At present ERISA plans are seeking 100% reimbursement that in many cases results in no relief to the plan members because the plan would take all of the claim proceeds. Therefore, many claimants and plans are getting less reimbursement because they demand 100% reimbursement. ERISA plans should be required to equitably apportion the proceeds of any personal injury recovery and the stop loss proceeds should benefit the plan members not the insurance companies.

With stop loss insurers getting all of the recovery and not sharing it with the plan members they are getting unearned compensation that does not benefit the claimant or the plan.

In the context of ERISA reimbursement, I have found that stop loss insurers seek refuge under ERISA preemption to give them unfettered access to subrogated recoveries. Much of the ERISA Reimbursement recoveries is paid directly to stop loss insurers and is of no benefit to the ERISA participants and beneficiaries. I believe that this violates ERISA's anti-inurement provision. And, in the process of gathering this subrogated recovery, the effort is maintained in the name of a so-called "self-funded" plan. Please keep in mind that "self-funded" does not mean "self-insured." Collection agents like Rawlings, Ingenix, ACS, and Anthem will not reveal stop loss insurance coverage upon inquiry and most plan administrators also refuse to do so. Furthermore, if a TPA or claims administrator is also providing stop loss coverage, the existence of stop loss coverage does not have to be revealed on the form 5500."

With Kind Regards,

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