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U.S. Department of Labor
Office of Health Plan Standards and Compliance Assistance
Employee Benefits Security Administration
Room N-5653
200 Constitution Avenue NW
Washington, DC 20210

RE: Request for Information – Stop Loss Insurance (CMS-9967-NC)

HM Insurance Group (HM) appreciates the opportunity to respond to the "Request for Information Regarding Stop Loss Insurance" published in the May 1, 2012 edition of the Federal Register. We look forward to working with the Departments of Health and Human Services (HHS), Labor (DOL), and Treasury (Treasury) to contribute to the Departments' understanding of the current market for stop loss insurance products.

Through its insurance companies, HM holds licenses in 50 states and the District of Columbia. HM has offices across the country that work with a network of producers who market stop loss insurance to large employers. HM is one of the leading stop loss insurers in terms of premium in the United States. Through strong working relationships with other business partners, HM works to ensure the best possible products and services are offered to employers and their employees. As a national stop loss insurance carrier, HM utilizes its financial security, market knowledge, and experience to design innovative and financially attractive stop loss programs.

1. **How common is the use of stop loss insurance in connection with self-insured arrangements?**

   HM does not collect statistical data on the overall frequency of stop loss insurance that is sold in connection with self-insured arrangements. However, according to the most recent Kaiser/HRET Survey of Employer Sponsored Health Benefits (2011), 58 percent of covered workers are enrolled in self-funded plans that have purchased stop loss insurance protection.

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Does the usage vary (and, if so, how) based on the size of the underlying arrangement or based on other factors?

Generally, factors that determine whether stop loss insurance is purchased are dependent on the plan sponsor's financial assets, tolerance for risk, and the age and general health of the population. For example, self-funded plans with fewer financial assets and an aging population may have a lower tolerance for risk, whereas self-funded plans with greater financial assets and a younger population typically have a higher tolerance for risk.

How many individuals, if known, are covered under stop loss insurance (either nationally or on a state-specific basis)?

As indicated in the previous question, HM does not collect statistical data on the overall frequency of stop loss insurance that is sold in connection with self-insured arrangements; however, one may infer a general number based on the percentage mentioned in the Kaiser/HRET Survey of Employer Sponsored Health Benefits (2011).

What are the trends?

Generally, the overall use of stop loss policies has grown as the self-insured market has grown. However, the proportional use of stop loss among various group sizes has remained constant.

Is the Affordable Care Act expected to affect these trends (and, if so, how)?

As a result of the elimination of lifetime and annual limitations on medical benefits under the Affordable Care Act (ACA), a potential trend may result in larger plan sponsors purchasing stop loss protection in order to cap their risk.

2. **What are common attachment points for stop loss insurance policies, and what factors are used to determine these attachment points?**

   Stop loss insurers determine attachment points on an actuarial and underwriting basis in connection with the plan sponsor's tolerance for risk. Factors such as group size and length of coverage in the self-insured marketplace may influence whether stop loss coverage is written with specific and/or aggregate attachment points. Common considerations used to determine an appropriate attachment point includes the plan's current employee census, geographic location, industry type, provider discounts, cost containment programs, and claims experience. Additionally, the plan summary description is reviewed to determine the underlying coverage and eligible expenses. Stop loss insurance that provides group level or aggregate attachment points follow the plan's underlying medical plan and may include dental, vision, non-capitated HMO expenses, and prescription drug benefits. Specific deductibles, as a rule, should fall between 3-12 percent of the group's expected aggregate claims amount. Typically, the minimum specific deductible attachment point offered by stop loss insurers is $25,000 while the minimum aggregate attachment point is 125 percent of expected claims. It is important to note, that a majority of states regulate stop loss insurance by setting minimum aggregate and specific attachment points.

What are common attachment points by employer size (*e.g.,* for plans with fewer than 50, between 50 and 100, or between 100 and 250 employees, and how do these compare to attachment points used by larger plans)?

The chart below depicts HM's typical per person specific attachment points (or deductibles). HM does not quote plans smaller than 50 lives, therefore no data is available for the small group market. Specific deductibles generally fall into a range of about 3-12 percent of the expected aggregate claim amount for the group. In general, larger groups select higher specific deductible amounts. Groups with more than 250 lives rarely choose a deductible less than $100,000.

Lives	HM Specific Deductibles
50 or less	HM does not quote
51-100	$25,000-$50,000
101-250	$50,000-$125,000
251+	$125,000+

Aggregate attachment points (or deductibles) are typically around 125 percent of the expected aggregate claim amount for the group.

What are the lowest attachment points that are available?

Several states set minimums on specific and aggregate attachment points. The lowest specific deductible quoted by HM is $25,000. The minimum aggregate attachment point required by states varies; however, the average range is between 110 to 125 percent of a group's expected claims.

What are the trends?

While there have been no trends other than state regulated minimum attachment points, specific deductible attachment points have generally increased over time, but at a slower pace than that of general medical cost trends.

3. **Are employee-level ("specific") attachment points more common, or are group-level ("aggregate") attachment points more common?**

   Larger plans (greater than 1,000 covered lives) generally have only employee-level (specific) attachment points. For smaller plans, typical stop loss coverage will include a combination of specific and aggregate attachment points. Aggregate only attachment points are not generally marketed to groups. HM only offers aggregate attachment points in conjunction with specific attachment points.

   What are the trends?

   Trends are relatively flat. That is to say, historically, small employers have typically purchased stop loss coverage with specific and aggregate attachment points while larger employers typically purchase stop loss policies with specific deductibles.

   What are the common attachment points for employee-level and group-level policies?

   Attachment points are determined by the underwriter based on an evaluation of the group; such evaluation includes the plan sponsor's tolerance for risk and factors such as current employee census, geographic location, industry type, provider discounts, cost containment programs, and claims experience. Additionally, the underwriter may review the summary plan description to determine the underlying coverage and eligible expenses. Given the amount of data reviewed and unique characteristics of each group an example of "common" or "average" attachment points for purposes of illustration may not have much meaning. That said, the minimum specific deductible attachment point offered by HM is $25,000, and the minimum aggregate attachment point is 110 percent of expected claims.

4. **How do insurers work with employers to integrate stop loss insurance protection with self-insured group health plans?**

   HM offers stop loss riders which provide the flexibility needed to integrate stop loss insurance protection with the plan sponsor's financial assets, tolerance for risk, and plan design.

   What kinds of options are available?

   Riders offered by HM provide plan sponsors with cash flow management, premium reductions, and protection against fluctuations in claims experience. The monthly aggregate accommodation is a standard rider which permits plan sponsors to settle claims on an interim monthly basis rather than at the end of the contract period. Another rider provides advance funding of specific stop loss claims which protects the employer's cash flow. The aggregating specific loss fund rider features an option to reduce stop loss premiums by assuming more of the risk. This option is attractive to larger plan sponsors who are able to assume more risk because of manageable past claims experience. Under an aggregating specific rider, the plan purchases the same specific deductible level for significantly less fixed premium than the normal specific premium by assuming an additional layer of risk. Policy riders provide plan sponsors with more flexibility with regard to its financial assets, risk tolerance, and plan design. Stop loss policy forms, including riders, are subject to State regulation and approval.

Are policies customized to meet the needs of different employers?

HM, like other stop loss insurers, obtains regulatory approval of its riders which feature options (see previous question for specifics) designed to meet the varying needs of plan sponsors.

How are the attachment points for a stop loss policy determined for an employer?

Stop loss insurers determine attachment points on an actuarial and underwriting basis in conjunction with the plan sponsor's tolerance for risk and financial assets. In addition, trended paid claims up to the specific deductible level are blended by experience years and a manual calculation. More specifically, a plan's claims experience and desired risk tolerance level are blended together to factor into the attachment point. The expected claims are then multiplied by a corridor, typically 125 percent, to set the aggregate attachment level. Specific attachment points are 3-12 percent of the projected aggregate claims for the group, subject to the minimum of $25,000. For plans that do not have claims experience, a manual aggregate-based calculation may be used.

Do self-insured group health plans purchase stop loss insurance anticipating that they will purchase it every year?

Stop loss policies renew annually; however, should the plan sponsor change funding arrangements by purchasing a fully insured plan, moving away from the self-insured market, a stop loss policy will not be renewed.

5. **For a given attachment point, what percentage of total medical costs incurred by the employees is typically paid for by the employer and what percentage is typically paid for by the stop loss insurance policy?**

The medical costs incurred under a self-insured plan are the responsibility of the plan sponsor. Stop loss insurance reimburses plan sponsors for paid medical costs in excess of the stop loss policy attachment point(s). Reimbursement by the stop loss carrier in excess of the attachment point is generally 100 percent of such costs up to a pre-determined maximum, which is either on a plan-year basis or a lifetime basis or a combination of a plan/year lifetime maximum. Only charges that are covered by the plan sponsor are included in this calculation. Stop loss insurance is never a first-party payor of medical benefits.

How much do the relative percentages vary for different attachment points?

The relative percentages for different attachment points represent an average and vary significantly depending on the geographic cost area, any provider discounts, and the actuarial value of the plan sponsor's benefit plan.

Specific Deductible	% Paid by Employer	% Reimbursed by Stop Loss
$10,000*	50%	50%
$20,000	66%	34%
$40,000	79%	21%
$50,000	82%	18%
$75,000	88%	12%
$250,000	97%	3%

*HM does not quote a $10,000 specific deductible, the figure is included for illustration purposes only.

What are the loss ratios associated with stop loss insurance policies?

Actual loss ratios vary from year to year; however, target loss ratios for stop loss insurance policies generally range from 65 percent to 85 percent, depending on any commissions paid, taxes, licenses, fees, and administrative expenses. Loss ratios are generally lower when compared to fully insured health insurance policies with loss ratios running 80 percent and 85 percent. The difference results from smaller monthly premiums for stop loss coverage and higher capital requirements. In regards to employer sponsored self-funded plans, stop loss insurance premiums are generally 5 to 10 percent of a fully insured equivalent premium rate.

6. **What are the administrative costs to employers related to stop loss insurance purchased for the employers' self-funded group health plans?**

Plan sponsors incur direct administrative costs from claims administrators (TPAs) and not from the stop loss carrier. There are no direct administrative costs to the plan sponsor related to stop loss insurance; however, as with any insurance product the stop loss carrier's administrative costs for items such a premium taxes, salaries, commissions, and general administration are a function of the premium charged. These administrative costs are only a fraction of the same administrative costs associated with a fully funded plan.

7. **Are there any minimum employee participation requirements for a small employer to be offered stop loss insurance?**

   Typically, 75 percent employee participation is required regardless of the plan's group size.

8. **What types of entities issue stop loss insurance?**

   State regulation of stop loss insurance requires that entities soliciting insurance are licensed. Stop loss insurance may only be issued by licensed insurance companies with authorized lines of insurance in health and/or property and casualty insurance.

   How many small entities issue stop loss insurance policies?

   As stated previously, only licensed insurance companies may issue stop loss policies.

9. **Do stop loss insurers increase fees for groups below a certain size or exclude those groups? If so, how?**

   HM markets stop loss insurance in the large group market and as a rule does not quote or issue stop loss coverage to plan sponsors with less than 50 enrolled lives.

10. **How do stop loss insurers evaluate the plans seeking coverage and how is this evaluation reflected in the coverage or premiums offered?**

    The evaluation of a plan that is seeking stop loss coverage is assessed by the stop loss insurer's underwriting department. A review of the individual group characteristics such as industry type, census, geographic location, the underlying plan design, claims experience, provider discounts, managed care networks, the summary plan description, and any cost-containment programs used by the third party administrator is undertaken to determine the potential risk and underlying coverage options suitable to the employer. The plan sponsor must then examine its tolerance for risk and financial assets in order to determine whether self-insurance is an option for the plan's benefit coverage.

    Does the profile of the plan have an effect on the attachment points available?

    Stop loss insurers use an underwriting assessment to determine the appropriate attachment points for the plan sponsor's stop loss coverage.

11. How do States regulate stop loss insurance?

Stop loss insurance is regulated by each States' regulatory agency governing insurance matters. Although the regulation of stop loss insurance may vary state-by-state, it is regulated in much the same fashion as group accident and health insurance.

Like other forms of insurance, one of the principal reasons for regulating stop loss insurance is consumer protection. Stop loss insurers must adhere to company and agent licensing requirements, obtain product and policy form approvals, implement reasonable and fair rating rules, and submit to statutory examinations. Regulators use financial examinations to determine the insurer's financial integrity and ability to reimburse plan sponsors for paid medical costs. Market conduct examinations may be conducted to ensure fair and reasonable insurance pricing, products, and trade practices. State regulatory agencies also provide regulatory complaint services that receive and handle complaints from consumers. In several states, stop loss insurers must file an actuarial certification certifying compliance with the state's stop loss regulations.

In States that are regulating this insurance, what are the licensing processes and standards?

States require stop loss insurers to apply for and maintain company licensure before selling products or services. State regulators apply licensing standards that protect consumers and financial solvency, the ability to pay claims (reimbursement to plan sponsors), and adherence to certain market conduct requirements. Licensing involves the review of finances, management, and business practices to ensure an entity is able to provide the coverage promised to policyholders. In addition, agents and brokers who sell insurance must be licensed and appointed by the insurer.

Have States proposed laws, regulations, or best practices with regard to stop loss insurance?

The National Association of Insurance Commissioners (NAIC), comprised of State insurance regulators, establishes standards and best practices, conducts peer reviews, and coordinates regulatory oversight of insurers. The NAIC's Stop Loss Model law (1995) establishes minimum criteria and standards for stop loss insurance. Under the model law, stop loss insurance policies are prohibited from providing first dollar or direct coverage of the health care expenses of any employee. The NAIC model law, or a variation thereof, has been adopted by approximately 20 states. The remaining states have adopted laws, regulations and/or issued regulatory guidance that regulate certain aspects of stop loss insurance.

Do such proposals focus on attachment points, size of the group, percent of total claims paid by the stop loss insurer, or other criteria?

Laws regulating stop loss insurance generally focus on group size, specific and aggregate attachment points as well as other protections that include, but are not limited to: arbitration, rate and termination provisions, exclusions and limitations, determinations of medical necessity, prompt payment of claims, and required disclosures.

Multiple states have enacted laws that mirror the NAIC model law by setting minimum per person specific deductible and aggregate (group level) attachment points. Six states have enacted the NAIC model law's minimum specific deductible attachment point of no lower than $20,000. However, minimum per person specific attachment points vary from state-to-state. For instance, several states set the minimum specific deductible at no lower than $25,000 while other states set the minimum as low as $10,000. Several states have enacted laws regulating aggregate attachment points that are substantially similar to the NAIC model law's minimum requirements. Under the NAIC model law a stop loss policy may not be issued with an annual aggregate attachment point for plans of 50 or fewer lower than the greater of the following: $4,000 times the number of persons in the group; 120 percent of expected claims, or $20,000. For groups of 51 or more, an aggregate attachment point may not be lower than 110 percent of expected claims. Of the states that have enacted laws regulating aggregate attachment points, several have set minimum attachment points between 110 and 125 percent of expected claims.

What are the issues States face in regulating stop loss insurance?

As the Departments are aware, States are prohibited under ERISA from regulating self-insured employer benefit plans and as such these plans are not subject to state health benefit mandates. Despite ERISA, states have attempted to require self-insured plans include state mandated health benefits through their stop loss insurance.

12. What effect does availability of stop-loss insurance with various attachment points and other particular provisions have on small employers' decisions to offer insurance to employees?

Due to the availability of stop loss insurance with flexible specific and aggregate attachment points and policy riders, plan sponsors are better equipped to meet their risk tolerance levels and provide comprehensive employee benefit coverage on a self-insured basis.

13. What impact does the use of stop loss insurance by self-insured small employers have on the small group fully insured market?

HM does not market the self-insured small employer market, and therefore, has no comment at this time.

HM appreciates this opportunity to provide responses to the Departments' Request for Information regarding Stop Loss Insurance. Should you have any questions or wish to discuss our comments, further please contact Roxanna Young, Legislative Affairs Manager at (717) 260-6984 or roxanna.young@highmark.com.

Sincerely,

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