

REPORT TO THE COMMISSIONER'S LIFE AND HEALTH ADVISORY COMMITTEE

DATE: September 11, 2017

SUBJECT: NAC 689B.350

After several months of exchanging thoughts and comments on various drafts, several telephone conferences including one hosted by the Division of Insurance, on behalf of the working group I would like to offer what the chair considers a "consensus" proposal in regard to the allowance of stop loss programs in Nevada.

Although the original group assigned to address this issue consisted of Jim Wadhams, Jack Kim and Barry Weissman it was joined and input was provided from several additional sources including Marc Reece from Aetna, Dan Meylan from Allied National, Frank Nolimal from Assurance Ltd, Catherine Bresler from Trustmark Ins, Adam Brackemyre from the Self Insurance Institute of America, Crystal Jack from Cigna, Tracey Woods, Steve Fitzsimmons and Steve Matrone from Anthem and Gwen King a producer from Elko.

The diversity of the group produced many views and it would not be fair to any of the participants to suggest that there was final agreement. Exercising the prerogative of the chair, I think a "consensus" was expressed in support of the modernization of the stop loss regulation. Mr. Nolimal in particular expressed a counter view that there should be no change until the ACA landscape is settled but the vast majority of the participants held the view that a modernized version of the stop loss regulation would encourage employers to maintain insurance for their employees rather than send them to the individual market. It is probably a shared view that the settling of the ACA landscape, the future of federal regulation of the healthcare market place and funding of any existing or future option is in the indefinite future.

Those supporting the modernization view were split nearly equally between those who favor allowing carriers to propose any program that fits that carrier's business plan and file it with the DOI to be reviewed and considered on its own merits without regard to any arbitrary minimum number of participants. The other view was to set a minimum participant level of 15 lives. I have inserted the minimum of 15 lives but note that it is a policy decision to be made by the Commissioner.

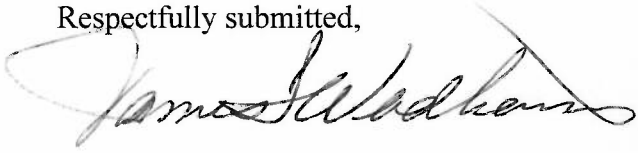
It perhaps should be noted that even with the differing view of some elements, the participants were unanimous that the regulation should be limited to small employers, 50 and under, and that larger groups should not have the additional restrictions or reporting requirements.

As chair and I think the group would concur, the opportunity for any view would certainly be encouraged at the workshops and hearings that would follow the proposal of an amendment to the existing regulation.

The Disclosure form and accompanying instructions will need further review through the workshop and hearing process.

I appreciate the opportunity to coordinate the discussion on this important matter and hope that our work has been helpful to you and your staff.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "James Wadhams". The signature is written in dark ink and is positioned below the text "Respectfully submitted,".

JAMES WADHAMS

JWADHAMS/13218613.1/031887.0001

NAC 689B.350 General provisions. (NRS 679B.130)

1. A policy for small group stop-loss insurance must:

- (a) Not be issued to an employer with fewer than 15 eligible employees;
- (ba) Not provide direct coverage of health care expenses of an individual;
- (cb) Have an annual attachment point for claims incurred per individual that is at least \$20,000; and

(dc) Have an annual aggregate attachment point;

(1) For small employer groups that is at least the greater of:

- a. One hundred and twenty percent of expected claims; or
- b Twenty thousand dollars

(2) For all other groups that is at least 110 percent of expected claims.

~~An insurer shall not issue a policy for stop loss insurance for a group health plan subject to the provisions of this chapter and chapter 689B of NRS if the policy for stop loss insurance:~~

~~—(a) Has an annual attachment point for claims incurred per individual that is lower than \$10,000;~~

~~—(b) Has an annual aggregate attachment point for groups of not more than 50 persons that is lower than the greater of:~~

~~—(1) The number of group members times \$4,000;~~

~~—(2) One hundred and twenty percent of expected claims; or~~

~~—(3) Ten thousand dollars;~~

~~—(c) Has an annual aggregate attachment point for groups of more than 50 persons that is lower than 110 percent of expected claims; or~~

~~—(d) Provides direct coverage of health care expenses of an individual.~~

2. For the purposes of this section, an insurer shall ~~determine the number of persons in a group on a consistent basis at least annually~~ file with the commissioner for informational purposes only, the minimum group size and minimum participation requirements.

3. ~~If a policy for stop loss insurance for a group health plan does not meet the criteria set forth in this section, the policy will be deemed to be a health benefit plan for the purposes of this chapter and chapter 689B of NRS.~~

~~—4.—As used in this section:~~

(a) “Actuarial certification” means a written statement by a member of the American Academy of Actuaries, or by another individual acceptable to the commissioner, that an insurer is in compliance with this section, based upon the individual’s examination and including a review of the appropriate records and the actuarial assumptions and methods used by the insurer in establishing attachment points and other applicable determinations in conjunction with the provision of stop-loss health insurance coverage.

~~(a)~~ (b) ”Attachment point” means the amount of claims incurred by an ~~insured~~ employer group beyond which an insurer incurs a liability for payment.

~~(b)~~ (c) “Expected claims” means the amount of claims that, ~~in the absence of~~ conjunction with a stop-loss policy or other insurance, are projected to be incurred by an ~~insured~~ employer group through its health plan.

~~(e)~~ (d) “A policy for stop-loss insurance” means insurance purchased by an employer to limit exposure to claim expenses under a health ~~benefit~~ plan provided by the employer.

(e) “Lasering” means:

- (1) Assigning an attachment point for an individual that differs from that used by other members of the plan based on the individuals expected claims or a given diagnosis;
- (2) Assigning a deductible to an individual that differs from that used by other members of the plan that must be met before stop loss coverage applies;
- (3) Denying stop loss coverage to an individual who would otherwise be covered by the health plan; or
- (4) Applying an actively at work exclusion to stop loss coverage.

4. A policy for stop loss insurance for a group health plan issued to a small employer shall include the following provisions:

- (a) A contract term with guaranteed rates for at least 12 months, without adjustment, unless there is a change in the benefits provided under the employer's health plan, a change in the employer's plan, a change in the administration during the contract period or more than a 10% increase or decrease in enrollment from the anniversary date;
- (b) Both a specific attachment point and an aggregate attachment point in a contract;
- (c) Plan benefits limitations and exclusions that align with the employer's health plan benefit limitations and exclusions, including any annual or lifetime limits in the employer's health plan;
- (d) A requirement that amounts payable under the stop loss policy will be paid if the claims payable under the health benefits plan are:
 - (1) incurred during the contract period; and
 - (2) paid within 12 months after the expiration date of the contract;
- (e) Coverage of incurred and unpaid stop loss claims when the small employer's stop loss plan terminates, if the claims are:
 - (1) incurred during the contract period; and
 - (2) paid within 12 months after the expiration date of the contract;

5. A stop loss contract issued to a small employer shall not include provisions that:

- (a) Allow lasering; or
- (b) Allow claims to be paid directly to an individual employee, member, or participant.

6. A stop loss insurance policy delivered, issued for delivery, or entered into with a small employer, shall include at least the following information:

- (a) The total premium for the stop loss policy;
- (b) The date on which the insurance takes effect and terminates, including renewability provisions;
- (c) The aggregate attachment point and the specific attachment point;
- (d) Limitations on coverage;
- (e) An explanation of monthly accommodation and disclosure about any monthly accommodation features included in the stop loss contract;
- (f) A description of terminal liability funding, including the cost of processing claims before and after the termination of the contract; and
- (g) Maximum claims liability to the employer.

7. The information required under subsection 6 shall be provided in a format prescribed by the commissioner or in a substantially similar format approved by the commissioner for informational purposes only.

8. Notwithstanding any other law, guarantee issue and guarantee renewability do not apply to stop loss policies.

Nevada Stop-Loss Disclosure

Required for ALL Stop-Loss Contracts or Policies

See page 3 for Disclosure Instructions. This Disclosure does not supplement, replace or substitute the terms of a contract or policy. Read the policy in its entirety.

Insurer Information

Insurer Legal Business Name		Phone	Today's Date
Street Address	City	State	Zip

Insured information

Employer Legal Business Name

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Stop-Loss Contract Features

Contract Type:		Effective Date:	Termination Date:
Covered Employees*:		Covered Lives*:	
Specific Attachment Point (Employer obligation)		\$	
Aggregate Attachment Point	% <small>(% of expected claims below specific att. point)</small>	\$	<small>(Dollar equivalent of % of expected claims)</small>
Minimum Participation Requirements <input checked="" type="checkbox"/> Yes, _____ <input type="checkbox"/> No			

Liability Exposure

	Monthly Cost †	Contract Period Cost †	
Fixed Costs (NAC 689B.350 subsection 7(a))			
Specific Stop-Loss Premium	\$	\$	
Aggregate Stop-Loss Premium	\$	\$	
Other Fixed Fees (if any)	\$	\$	
Subtotal Fixed Costs	\$	\$	
Variable Costs (NAC 689B.350 subsection 7(a))			
Retained Claims Not Covered by Stop-Loss			
Minimum	\$	\$	
Expected	\$	\$	
Maximum	\$	\$	
Other Variable Fees (if any)			
Minimum	\$	\$	
Expected	\$	\$	
Maximum	\$	\$	
Total Employer Outlay (Claims Liability) NAC 689B.350 subsection 7(g)			
Minimum	\$	\$	
Expected	\$	\$	
Maximum	\$	\$	

*This item should reflect the expected enrollment at the coverage effective date.

‡Minimum participation requirements may apply. This policy may terminate if the anticipated level of enrollment is not met.

†Monthly and Contract Period Costs should be based on enrollment expected on the coverage effective date.

Nevada Stop-Loss Disclosure

Limitations on Coverage

- Any benefits covered by the underlying plan that are excluded by the stop-loss contract or policy:

Explanation of any Monthly Aggregate Accommodation

- Provide a description of any monthly aggregate accommodation features included in the stop-loss contract or policy such as partial payments under aggregate coverage during the policy year rather than waiting until the end of the contract or policy year:
- References to sections of a stop-loss contract or policy if the contract or policy is provided along with the disclosure form:

Description of Terminal Liability Funding

- Include the cost of processing claims before and after the termination of the contract or policy:
- References to sections of a stop-loss contract or policy if the contract or policy is provided along with the disclosure form:

*This Disclosure does not supplement, replace or substitute the terms of a policy.
Read the policy in its entirety.*

Nevada Stop-Loss Disclosure Instructions

- The purpose of the Nevada Stop-Loss Disclosure form is to help an employer make an informed decision about self-insuring major medical (medical, prescriptions, dental, vision, etc.) coverage with stop-loss reinsurance. The disclosure form should provide enough information to the employer that it can understand its expected and maximum liability under a self-insured arrangement with stop-loss reinsurance. The disclosure is to be provided by a stop-loss insurer to an employer prior to the effective date of a stop-loss contract.
- The contract type is the period of coverage for stop-loss where the first number represents the number of calendar months covered and the second number represents the number of months covered plus the run out period. For example, a contract starting 1/1/2017 and ending 12/31/2017 with the ability to submit claims to the reinsurer for claims incurred during the contract and paid through 12/31/2018 would be a 12 /24 contract. Please note that Nevada Administrative Code (“NAC”) 689B.350 subsection 5(d) requires that the contract provide at least 12 months of coverage and 12 months of run out.
- Expenses associated with providing the stop-loss coverage (e.g. commissions, administrative expenses, risk profits, etc.) should be included in the “Other Fixed Fees” or “Other Variable Fees” fields of the “Liability Exposure” section.
- The “Total Employer Outlay” is to be calculated as Fixed Costs + {Minimum, Expected, or Maximum} Variable Costs. For example, the Total Employer Outlay (Min) would be:
$$\text{Total Employer Outlay (Min)} = \text{Subtotal Fixed Costs} + \text{Retained Claims Not Covered by Stop Loss (Min)} + \text{Other Variable Fees (if any) (Min)}$$
- Sections “Limitations on Coverage,” “Description of Monthly Accommodations,” and “Description of Terminal Liability Funding” can be populated with references to sections of a stop-loss contract or policy if the contract or policy is provided along with the disclosure form. The “Limitations on Coverage” section should include an explanation of any benefits covered by the underlying plan that are excluded by the stop-loss policy.
- The policy for stop loss insurance is renewable at the option of the insurance company.

Employer Name (PRINT)

Employer (Signature)

Date

Producer of Record (PRINT)

Producer of Record (Signature)

Date
