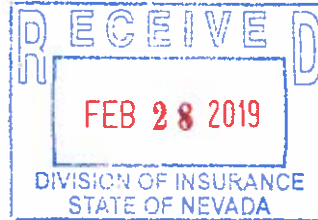




**PROTECTING AND PROMOTING SELF-INSURANCE  
AND ALTERNATIVE RISK TRANSFER SINCE 1981**

March 1st, 2019

Annette James  
Nevada Division of Insurance  
1818 E. College Parkway, Suite 103  
Carson City, Nevada 89706  
Via email to: [Suebell@doi.nv.us](mailto:Suebell@doi.nv.us)



**RE: Stop-Loss Regulation R127-18**

Dear Ms. James:

As a national trade association representing companies involved in the self-insurance marketplace, including third-party administrators (TPAs), stop-loss insurance carriers, brokers and attorneys, the Self-Insurance Institute of America (SIIA) and its members are proud to represent and assist tens of thousands of self-insured employees and their dependents in both the public and private sector.

We appreciate the department holding stakeholder hearings and issuing multiple discussion drafts. We are pleased to offer our comments on R127-18.

**NAC 689B.350**

**1. A stop loss policy must:**

***(a) "Not be issued for a small employer group that offers a group health plan to fewer than 15 employees who are covered by the group health plan;***

Comment: This should be removed. Prohibiting smaller employers from exploring available health plan options with stop loss may eliminate the only option a smaller employer can afford. We note that many smaller employers choose between a self-insured plan and no group coverage.

Secondly, a prohibition on employer groups of 15 and under seems arbitrary. There is no evidence that indicates that groups this size would move their employees to the individual market.

As you may know, stop-loss carriers rarely, if ever, have health plan enrollment data. To underwrite the stop-loss policy, they use enrolled employee counts. That headcount is also used to determine whether state small group or large group laws and regulations apply to the policy.

***3(a) A provision in the policy for stop-loss insurance that guarantees the rates of the policy for stop-loss insurance for at least 12 months, without adjustment, unless there is a change in the benefits provided under the group health plan provided by the small employer that occurs during the term of the policy for stop-loss insurance;***

Comment: We appreciate the intent of protecting the plan sponsor with this language. However, we believe that stop-loss should be re-priced when an employer makes other decisions that affect health plan enrollment, such as hiring

more people or merging with another company. We think the following language from Maryland is reasonable and protects plan sponsors and carriers:

- (1) guarantee rates for at least 12 months, without adjustment, unless there is a change in:
  - (i) the benefits provided under the small employer's health benefit plan during the policy or contract period;
  - (ii) the ownership and control of the small employer; or
  - (iii) the number of covered lives by a significant percentage resulting from an event such as an acquisition or a divestiture;

***3(d) A requirement that the policy for stop-loss insurance must pay any claim incurred by a natural person, including, without limitation, an employee or nonemployee of the small employer, covered by the policy of stop-loss insurance if the claim which is payable under a group health plan is incurred during the term of the policy for stop-loss insurance and such a claim is:***

***(2) Unpaid as of the termination date, if any, of the policy of stop-loss insurance.***

Comment: This section seems to suggest that a stop loss carrier should reimburse an employer for a health claim that is either not paid or is not eligible for payment by the underlying health plan. As you know, 1(b) prohibits stop loss carriers from paying providers directly. In addition, stop loss coverage is issued and priced based on the premise that certain health plan claims will be paid by the plan sponsor. To suggest that a stop loss carrier would pay for losses not incurred by the underlying plan is unreasonable.

To clarify the obligations of stop loss coverage, we suggest the following language:

***3(d) A requirement that the policy for stop-loss insurance must reimburse pay any paid claim incurred by a natural person, including, without limitation, an employee or nonemployee of the small employer covered by the policy of stop-loss insurance, if the paid claim which is payable under a group health plan is incurred during the term of the policy for stop-loss insurance and such a claim is:***

***(2) ~~Unpaid~~ Unreimbursed as of the termination date, if any, of the policy of stop-loss insurance.***

***5. An insurer that issues a policy for stop-loss insurance shall submit to the Commissioner a summary document which includes, without limitation, the following information:***

Comment: As drafted, this applies to all stop-loss carriers issuing coverage in Nevada. In previous discussions, we understood that the intent is to require this of small employers only. Kindly clarify.

Question: It appears that the department requiring stop-loss carriers to send a summary for each in-force policy to the department. Would the Department's needs be met with a reporting of the ranges of benefit plans issued, either upon request of the Department or annually?

**5(f) A description of terminal liability funding, including, without limitation, the cost of processing claims before and after the termination date, if any, of the policy of stop-loss insurance;**

Comment: A terminal liability provision is generally included in our stop loss policy offering (but not required). The cost of processing a plan's claims is not known and generally not relevant to the terminal liability provision.

**5(g) The maximum liability of the small employer for claims arising under the policy for stop-loss insurance.**

Comment: This is duplicative of information reported in 5(c) above.

**6(a)(1) The size of the small employer, including, without limitation, the number of:**

**(I) Natural persons, including, without limitation, employees and nonemployees of the small employer, covered by the policy for stop-loss insurance; and**

**(II) Employees employed by the small employer as of the beginning of the policy for stop-loss insurance;**

Comment: Stop-loss carriers underwrite policies based on the number of enrolled employees. They do not have employee and nonemployee health plan eligibility data (which would include employees eligible for coverage that chose not to enroll).

**6(a)(2) The number of exposure years for:**

Comment: The term "exposure year" is not defined.

Comment 2: The comments for **6(a)(1)** are applicable for **6(a)(2)**. The plan sponsor does not report this information to a stop-loss carrier.

**9(e) "Health care expenses" means the expenses of a group health plan associated with the delivery of services for health care that are analogous to the incurred losses of an insurer.**

Comment: We suggest striking the portion of the sentence after "health care." Comparing health plan claims payments to health insurance policy losses is unnecessary:

"Health care expenses" means the expenses of a group health plan associated with the delivery of services for health care ~~that are analogous to the incurred losses of an insurer.~~

**9(c) "Expected claims" means the amount of claims that, in the absence of a policy for stop-loss [policy] insurance or other insurance, are projected to be incurred by an insured group through its group health plan.**

Comment: Since the new law requires both a specific and aggregate attachment point, for purposes of setting the minimum aggregate attachment point, we'd recommend expected claims be defined as:

(c) "Expected claims" means the amount of annual claims below the specific stop loss attachment point that are projected to be incurred by an insured group.

**9(f) "Lasering" means:**

***(1) Assigning a different attachment point for a natural person, including, without limitation, an employee or nonemployee of a small employer, based on his or her expected claims or diagnosis;***

***(2) Assigning a deductible to a natural person, including, without limitation, an employee or nonemployee of a small employer, that must be met before coverage under a policy of stop-loss insurance applies;***

Comment: These requirements (1) and (2) are duplicative in intent but worded differently so are confusing. One of these bullets should be removed.

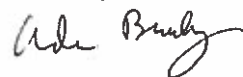
***9(i) "Specific attachment point" means the amount of claims incurred per natural person, including, without limitation, an employee or nonemployee of a small employer, who is a member of the insured group beyond which an insurer incurs a liability for payment.***

Comment: The definition should be amended to recognize that only paid claims count toward an attachment point.

"Specific attachment point" means the amount of claims incurred and paid per natural person, including, without limitation, an employee or nonemployee of a small employer, who is a member of the insured group beyond which an insurer incurs a liability for ~~payment~~ reimbursement and the plan sponsor pays the claim."

Thank you for your consideration of these comments. If you have questions or would like to discuss further, please call me at (202) 595-0641.

Sincerely,



Adam Brackemyre  
Vice President of State Government Relations