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**To:** [E-OHPSCA-STOPLOSS.EBSA](#)  
**Subject:** Responses to Request for Information about Stop-Loss  
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The following comments are offered in response to the DOL/IRS request for information regarding the use of stop-loss insurance in conjunction with partially self-funded employee health benefit plans. These comments are from the perspective of a third-party administrator of such plans.

### 1. Extent of use of stop-loss?

As a third-party administrator, we commonly use the term “partially self-funded” plans rather than self-insured plans because after all, both partially self-funded and fully-insured approaches are simply different means of funding health benefits to an employer’s workforce. The employer, the plan sponsor, has a number of different alternatives available by which to fund those benefits. The term “partially” is derived from the fact that most employers engage a reinsurance carrier to coordinate with and support their plan for certain claims which exceed pre-determined cost levels

Partial self-funding (self-insuring) is one alternative attractive to many employers as a way to cope with the rising costs of providing health benefits. All of the partially self-funded health plans that we administer use some form of stop-loss insurance as a way to protect the financial integrity of the plan and prevent the plan sponsor, or the plan, from catastrophic claims for benefits.

The specific levels of stop-loss attachment points (both specific and aggregate) are a flexible component of the plan and vary from one plan to another based on each plan sponsor’s desired level of company funding and financial philosophy. It is a business decision. Employer size is not usually a determinant. We administer plans for smaller employers who have the financial capacity to bear a larger share of claims responsibility than some larger employers. Similarly, we administer some larger employers who desire their attachment point for stop loss insurance to be at lower levels.

We do not have information that would allow us to comment on the number of individuals covered by stop-loss arrangements on a national or state basis but it is widely reported that the majority of health plan members in the United States today are participating in partially self-funded plans.

As for trending, in general, it appears to us that plan sponsors are choosing higher attachment points in order to attain premium levels that are affordable and allow them to continue to sponsor a self-funded plan. We do see increased levels of interest in self-funded plans in general.

We are unable to predict the effect of the Affordable Care Act on these trends but, to the extent that ACA creates significant added administrative burdens and layers of bureaucracy while doing little to bring about reductions in the costs of health care, we

would expect the trend toward increased premiums for stop-loss and health care insurance coverage to continue.

## 2. Common attachment points for stop-loss insurance?

As noted above, the levels of attachment points in use by our clients has more to do with the financial desires of the employer firms than the size of the plan. Most aggregate attachment points are 125% of expected claims. Typical specific attachment points are on the order of \$40,000 to \$100,000; again not necessarily related to number of employees.

Attachment points, and therefore premium amounts, are affected by plan design, access to particular PPO networks, overall health of the work force, past healthcare costs of the employee population, type of industry, location, employer financial goals, and other factors unrelated to employer size.

We administer a case with 36 employees and another with 170 employees having a specific attachment of \$40,000. We have a case with 140 employees and a specific limit of \$50,000. We also have a case with 380 employee lives, which carries a specific attachment point of \$100,000.

Attachment points are only some of the factors among a great many to be considered in designing an affordable, effective, and meaningful employee benefit plan.

The lowest specific attachment point we've seen is \$20,000

## 3. Commonality of employee-level attachment points?

Both single claim/single case (what we would call specific) and aggregate attachment points are typically used in the plans that we administer. There have been a few smaller plans that used aggregate-only insurance concepts. In the aggregate only concept there is no specific attachment point and the reinsurer is responsible on a monthly basis for assuming all claim cost created above the monthly aggregate attachment point. In this concept, one large claim could by itself cause the entire plan to incur an aggregate monthly limit and thereby "attach" to the reinsurance carrier for coverage.

These plan types are not typical and were intended to provide an avenue of transition for employers wishing to move from fully insured to a partially self funded plan environment. Unless the plan is a "healthy population" and the medical provider contract rates are exceptionally low, the aggregate only concept has not proven to be very effective. Consequently we have not seen the concept to much extent recently and do not recommend them.

In general, it appears to us that focusing on attachment points will not result in reaching meaningful conclusions regarding self-funded/self-insured health plans. Existing ERISA DOL regulations applicable to group health plans have proven historically to be very effective for the purpose of regulatory oversight.

#### 4. Integration of stop-loss insurance with self-funded plans?

In the case of stop-loss policies, the insurers (the carriers) rarely work directly with the plan sponsor in integrating stop-loss with the health plan. Third-party administrators coordinate and integrate the attachment points and resulting filings for claim payment/reimbursement by the stop loss carriers as an important administrative function.

The most common options regarding stop-loss have to do with the coverage periods before and after the current plan year. That is, how many months of coverage is available to cover claims costs in the months before and after the current plan years. Most plan sponsors expect to procure stop-loss insurance every year. The ability for the employer plan sponsor to “shop” their stop loss insurance every plan year while retaining the plan itself without change is a very positive factor regarding partially self funded plans.

Attachment points are determined usually by the effect of the attachment point on the premium, along with the particular employers capacity and appetite for financial responsibility as explained above.

#### 5. Stop-Loss attachment point effects on percentage of medical costs incurred by employees?

The question does not appear to be relevant. We observe no correlation between attachment points and employees’ cost-sharing levels. The employee cost share is a function of the plan design in the same manner such cost share is determined in fully insured plans. The stop loss attachment points and the stop loss functionality itself are not visible to the employee and operate as the funding mechanism for larger claims. The employee has reached maximum out of pocket cost for the individual and/or the family well in advance of the attachment points and stop loss coming into play. Accordingly level of the plan members’ cost sharing is not impacted by attachment points.

#### 6. Administrative costs of stop-loss?

There is no segregation of administrative costs relative to stop-loss within the TPA. Stop-Loss is a common component of a self-funded plan. TPA’s base administrative fees on the total costs of administration plus allowance for a profit. Stop-Loss administration is a relatively small part of overall administrative efforts.

#### 7. Industry prevalence?

We do not observe any correlation between type of industry and the use of stop-loss, nor would we expect to see any correlation. As stated earlier, it is a financial management tool appropriate across industry segments.

It is not clear to us what the question of “minimum employee participation requirements” means in the context of stop-loss. Stop-loss coverage is offered subject to specific underwriting requirements that include employees and dependents

to be covered. Employee participation might affect the number of plan participants that a stop-loss carrier would be able to consider in terms of risk exposure and could therefore potentially influence premiums in a negative way, thus serving as a disincentive for smaller employers to self-fund.

#### 8. Types of entities issuing stop-loss?

Some insurance carriers sell and specialize in selling stop-loss directly to the plan or employer via qualified broker or consultant relations. Some carriers offer stop-loss as a part of a range of insurance products they offer. Some insurance carriers use managing general underwriters (MGUs) for marketing and administration of stop-loss. There are various combinations of these arrangements and generalizations are hard to come by.

#### 9. Insurers fee variability and/or exclusion of small employers?

Similar to the larger fully insured carriers, different stop loss re-insurers will have different criteria according to their own financial goals and objectives and how those impact their marketing plans. In general it would not be in their best interest to market to employers for whom partially self-funded insurance plans are not appropriate. It could be expected that the costs to offer stop-loss to smaller plans and the associated administrative costs and underwriting risks would result in premiums and overall costs that would not be competitive in the marketplace.

#### 10. Stop-Loss insurers' evaluation of plans?

Every stop-loss insurer is going to have underwriting criteria consistent with its financial objectives. Each will have its own criteria. Underwriting practices include use of an underwriting manual as the basis for establishing "base" premium rates (very similar to fully insured processes for underwriting). Underwriting manuals are procured by stop loss carriers from one of several industry sources who specialize in collecting data for the purpose of developing underwriting manuals. In addition to working from the manually developed base rates, an analysis and assessment of both the existing and expected medical costs of a plan's participants will have an effect on the attachment points and premiums of a stop-loss policy.

#### 11. State regulation of stop-loss insurance?

As we are not a stop-loss carrier, we are not in a position to respond to this question.

#### 12. Effect of availability of stop-loss to small employers?

To the extent that stop-loss insurance is available, and at what cost, is one of the determining factors in choosing whether to self-fund or not. It is not relevant to the size of the employer per se. At some point, the risks of insuring a small employer group may have an impact on the cost of that insurance such that the decision to self-fund is not economically viable. It is somewhat analogous to life insurance for a heart patient. It might be available, but it's probably not affordable. So, the availability is not really what affects the decision.

### 13. Stop-Loss impact on fully-insured market?

We would not expect stop-loss alone to influence the fully-insured market. There are many employers, of all sizes, that fully-insure their health benefits. Their decision is not driven by the availability of stop-loss but by the myriad of factors that go into any risk financing decisions. Fully-insured carriers employ reinsurance to manage catastrophic risks. Self-funded employers use stop-loss in a similar way.