From:	Joanie Verinder
To:	E-OHPSCA-STOPLOSS.EBSA
Subject:	Comments on Request for Information Regarding Stop Loss Insurance
Date:	Tuesday, June 26, 2012 10:20:55 AM
Attachments:	Request for Information - Stop Loss Insurance.pdf

Please find attached our comments as requested.

Thank you,

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June 26, 2012

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)

Group & Pension Administrators, Inc. (GPA), the largest independently owned third-party administrator (TPA) in the Southwest, providing highest-quality and custom healthcare benefit management solutions to discerning self-insured employers, respectfully submits the following to the referenced Request for Information. Of GPA's client base, 92% purchase stop loss insurance at some level to help manage their risk so we work closely with employer and the stop loss carriers they chose.

The Departments are requesting comments to contribute to the Departments' understanding of the current and emerging market for stop loss products, generally and with respect to the following specific areas:

1. How common is the use of stop loss insurance in connection with self-insured arrangements? Does the usage vary (and, if so, how) based on the size of the underlying arrangement or based on other factors? How many individuals, if known, are covered under stop loss insurance (either nationally or on a state-specific basis): What are the trends? Are past trends expected to be predictive of future trends? Is the Affordable Care Act expected to affect these trends (and, if so, how)?

   For employers covering less than 10,000 employees, stop loss insurance is extremely common. Most employers in this classification who self-insure, will purchase Specific (employee-level) stop loss insurance to protect against a high cost claim on an individual member covered by their plan. Employers with 2,000 and fewer employees will also commonly purchase Aggregate (group-level) stop loss insurance to protect against the Plan incurring liability in excess of the amount budgeted. Employers with less than 250 covered employees almost always purchase both Specific and Aggregate coverage.

   We believe that more than 70% of Americans with private sector employee benefit medical coverage have an underlying self-funded program. Fortune 500 companies make up a large portion of this percentage and most of these size employers do not purchase stop loss insurance protection. The employer's capital and risk tolerance are sufficient to cover the plan expense. But most other employers who self-fund will purchase some level of stop loss protection.

   An employer's risk tolerance is the critical decision factor in the purchase of stop loss insurance. Since the passage of the Affordable Care Act though, more, and larger, employers are purchasing

stop loss insurance to cover the additional liability created with the unlimited coverage that must be offered. So far most employers have not seen any significant increase in the frequency (number) of high cost claims, but the magnitude (total cost) of these claims is increasing rapidly—much faster than normal medical trend. This is likely a consistent phenomenon with insurance carriers as the cost of fully insured programs is also increasing faster than trend which is driving more employers to consider self funding.

2. What are common attachment points for stop loss insurance policies, and what factors are used to determine these attachment points? What are common attachment points by employer size (e.g., for plans with fewer than 50 and 100, or between 100 and 250 employees, and how do these compare to attachment points used by larger plans)? What are the lowest attachment points that are available? What are the trends?

   The determination is based upon risk tolerance but most self-funded employers will purchase an aggregate policy with an attachment point that is 120% to 125% of expected claims. Options range from 100% up to 150% but it is rare for self-funded employers to purchase protection below 115% of expected claims or above 130% of expected claims. The size of the employer does not normally impact the percent of expected claims although most employers with over 2,000 employees do not usually purchase an aggregate policy.

3. Are employee-level ("specific") attachment points more common, or are group-level ("aggregate") attachment points more common? What are the trends? What are the common attachment points for employee-level and group-level policies?

   As related in Question 1, employers covering less than 10,000 employees tend to purchase some type of stop loss insurance. Specific (employee-level) stop loss insurance is extremely common with coverage ranging from as low as $25,000 per individual to as high as $500,000 per individual. The employers' risk tolerance will determine the Specific stop loss threshold. Employers with less than 100 covered employees will most likely purchase Specific insurance with thresholds of between $25,000 and $75,000; whereas employers with 100 to 500 covered employees will purchase coverage at thresholds between $50,000 and $200,000. Almost every employer with more than 500 employees will have Specific insurance at a threshold of $100,000 or higher.

   Aggregate (group-level) protection is less common on employers covering more than 2,000 employees. For those employers covering less than 2,000 employees, many will purchase Aggregate insurance protection at a percentage of their expected claim liability. These policies normally have an Attachment Point that will range between 115% and 130% of expected claims, with 125% as the most common level.

4. How do insurers work with small employers to integrate stop loss insurance protection with self-insured group health plans? What kinds of options are generally made available? Are policies customized to meet the needs of different employers? How are the attachment points for a stop loss policy determined for an employer? Do self-insured group health plans purchase stop loss insurance anticipating that they will purchase it every year?

   Once an employer decides to move to a self-insured program, it is rare for them to move back to a fully insured program—unless they realize a dramatic reduction in covered employees. The stop loss carrier's work closely with administrators and TPA's to provide a large choice of options to

provide liability protection for both individual high cost claimants and for the employer on a total cost basis. The stop loss policies though are filed with each State independently so the policy customization is limited to the variable components in the filing. The size of the specific deductible or percentage of expected claims is variable but the medical services that are covered and/or not covered are not flexible.

The attachment points are based upon a combination of the employer's historical plan experience and the demographic mix for the employer. The stop loss issuers underwriting manual may also influence the attachment point depending upon the credibility of the historical experience.

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? How much do the relative percentages vary for different attachment points? What re the loss ratios associated with stop loss insurance policies?

   In a self-insured plan, 100% of the medical costs are paid by the employer and/or Trust. Stop loss policies are reimbursement policies that reimburse the employer for its losses above a certain threshold. Stop loss policies do not pay providers directly as a health insurance policy would but reimburses an Employer for their losses much like a property and casualty policy. There is no typical split of reimbursement levels between the employer and the stop loss policy. The risk tolerance of the employer will determine the amount of protection afforded by the stop loss carrier. Smaller employers tend to have a lower risk tolerance and therefore cede more of the risk to the stop loss carrier. The cost of medical treatment is volatile so an employer's actual plan experience (possibly in combination with a stop loss carrier's underwriting manual expectations) is utilized to determine the employer's expected claim liability each policy period and an aggregate "margin" is added based upon the fore-mentioned risk tolerance. Stop loss carriers spread the potential risk of an aggregate refund over many employers and have a target loss ratio that is in the 60% to 70% range for a block of business.

6. What are the administrative costs to employers related to stop loss insurance purchased for the employers' self-insured group health plans? How do these costs compare to the administrative costs related to purchasing a health insurance policy from an issuer?

   The administrative costs for employers who self-fund and purchase stop loss insurance are significantly lower than the internal cost of administration of a fully insured program. Insurers have much higher overhead and they must also include a "claim fluctuation charge" or "margin" with every policy. The higher overhead is due to both premium taxes and the higher expense associated with State plan requirements and mandates. The cost to administer a self-funded plan (not including stop loss insurance) is normally in the range of about 5% of expected claim liability (closer to 10% for employers with less than 100 employees) as compared to about 10% for fully insured plan administration.

7. Is stop loss insurance more prevalent in certain industries or sectors? Are there any minimum employee participation requirements for a small employer to be offered stop loss insurance?

   Self-insured coverage is readily available to any industry or sector. It is not as common for employers with less than 50 covered employees to self-insure but smaller companies with a higher risk tolerance will have success. Stop loss coverage is also subject to employer

participation requirements to avoid adverse selection against the carrier. Most carriers require an employer to provide coverage to at least 75% of the eligible employees. This is a normal industry standard but there are exceptions.

Each stop loss carrier also has a minimum number of covered employees required in order to provide a policy. This varies widely from as high as a few hundred employees to as low as ten to fifteen employees. The most common minimum will be in the 25 to 100 employee range. Self-insurance for smaller employers is available, but extremely rare.

8. What types of entities issue stop loss insurance? **How many small entities issue stop loss insurance policies?

   The majority of stop loss insurance is provided by one to two dozen insurance carriers. Most of the insurers who issue stop loss policies generate only a minor portion of their total revenue from stop loss insurance. Stop loss insurance is commonly used to diversify their liability in conjunction with the risk they assume in the offering of other coverage (e.g. life insurance, disability insurance, worksite marketing programs, worker's compensation, etc.)

   Some of these insurers offer their coverage on a direct basis to employers with dedicated sales representatives marketing to the employers, insurance agents and brokers and third party administrators. Others offer their coverage through independent marketing and/or underwriting organization, commonly referred to as a Managing General Underwriter (MGU). These organizations provide the operational support to an insurer which does not have, or desire to have, the staff to market and manage the risk at an employer level. Some MGU's will assume a limited portion of the financial risk while others operate solely as a "middle-man" for the insurer.

   There are a couple of hundred other insurance companies that offer stop loss insurance but most are market on a direct basis with a limited presence in any State or local. All States require an insurance license to provide stop loss insurance so there is a licensing process, and all policies must be filed and approved in each State.

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

   Most stop loss carriers have a minimum covered employee requirement which varies from as low as 10 employees to as high as several hundred employees. The premiums are primarily based upon the employer's demographic mix in addition to their experience. Smaller employers, or employers without much information, will have premiums influenced by the stop loss issuer's underwriting manual.

10. How do stop loss insurers evaluate the plans seeking coverage and how is the evaluation reflected in the coverage or premiums offered? Does the profile of the plan have an effect on the attachment points available?

    Stop loss insurers will review an employer's claim history to determine the needed premium for a risk. Based on the size of the group, the insurers underwriting manual may be utilized to help establish the proper premium. The employer may be impacted by the underwriting of individuals with potential high cost though. Many stop loss carriers will place a higher specific stop loss

threshold (or deductible) on a higher risk individual. This higher threshold (or laser) is based upon the projected cost to treat the individual during the policy period. The laser is placed in lieu of including this projected cost in the premiums. For smaller employers a laser can be a financially crippling situation.

The make-up of the employer may impact the attachment point based upon the stop loss insurer's determination of risk. For higher risk employers stop loss insurers may not allow a lower margin level below 120% or 125% of expected claims.

11. How do States regulate stop loss insurance? In States that are regulating this insurance, what are the licensing processes and standards? Have States proposed laws, regulations, or best practices with regard to 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? What are the issues States face in regulating stop loss insurance?

    To our knowledge, every State mandates a stop loss carrier file their policies for approval. The policies have to meet certain criteria regarding coverage and reimbursement, but there is flexibility with the size of the specific deductible and attachment point. In Texas there is very little regulation of stop loss insurance.

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

    The availability of stop loss insurance is critical to providing small employers options. Since the cost of fully insured coverage continues to escalate rapidly, more employers are considering self-insurance but only if stop loss protection is available. For many small employers, self-insurance has become their only option as they can manage the cash flow requirements for self-insurance, but they cannot afford the monthly premiums consistently.

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

    Self-funding gives the employers flexibility to determine which approach is right for their situation. Just as fully-insured carriers spread the risk over many small employers, self-funding allows employers to spread their risk over many years and benefit in good experience years yet have reserves in poor experience years. It also allows the employer to tailor-make their plan to meet the needs of their specific population instead of using a "one size fits all" approach. So if an employer wants to invest in enhanced lifestyle or wellness programs, they benefit from the results.

Thank you for the opportunity to submit comments and we appreciate your consideration.

Sincerely,

Group & Pension Administrators, Inc.