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To: E-OHPSCA-STOPLOSS.EBSA
Subject: Stop Loss RFI
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Attachments: DOL Stop Loss RFI Answers.docx

Attached are my answers to your RFI.

Thank you,

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Question #1:

- *How common is the use of stop loss insurance in connection with self insured arrangements?*
    - It depends on the size of the group, primarily. Although I can point you to various studies on the subject that have drawn estimates based on group size, I don't have a data set that would allow me to measure it directly.
- *Does the usage vary (and, if so, how) based on the size of the underlying arrangement or based on other factors?*
    - Yes, the most highly correlated variable is the size of the group; the smaller the size of the group, the more likely the employer is to purchase stop loss insurance. This is a consequence of two considerations, in my opinion. First, the smaller the employer the less financially able it is to absorb the liability of a catastrophic medical claim. Second, the smaller the group, the more variable and therefore less predictable are the claims associated with the group in any given year. In both cases stop loss insurance is a good risk management tool.
- *How many individuals, if known, are covered under stop loss insurance (either nationally or on a state-specific basis)?*
    - I do not have any knowledge other than what has been publicly published.
- *What are the trends?*
    - Based upon personal observation and published articles, I would say the trend over the last 10 years has been that fewer groups small groups (less than 200 employees) are self funding while the number of large-groups that are self funded has increased.
- *Are past trends expected to be predictive of future trends? Is the Affordable Care Act expected to affect these trends (and, if so, how)?*
    - In my opinion, yes, I believe this trend will continue. I have heard various people speculate that PPACA will result in more small groups being interested in self funding their benefit plan but I disagree. Most of the opinions I have heard on this subject tend to base the conclusion on a couple common premises:
        - Because PPACA requires health insurers to take all applicants and removes the ability to base the premium on the group's unique risk, the price disparity between fully-insured and self-funding will grow, thus incenting groups to move to self-funding.
        - Since the Minimum Essential Benefits only apply to health insurance plans, employers will try to avoid offering the benefits by self-funding and/or this will also lead to a greater price disparity between the two markets.
    - I believe history indicates that both of the preceding premises are unlikely to be realized. Beginning with the first point above, I would argue that the passage of HIPAA provides a very good precedent. HIPAA required guaranteed issue and limited the rate variance for groups with fewer than 51 employees. The aforementioned requirements imposed by HIPAA didn't apply to groups that chose to self-fund yet there was no explosion in the level

of interest of small employers in self-funding. In fact, I would argue that this was the beginning of the slow decline in self-funding among small employers. In regards to the second point above, this is no different than state-mandated benefits which also apply to fully-insured plans but not to self-funded plans. In my experience, the existence of state-mandated benefits influences the decision to self-fund very little.

Question #2:

- *What are common attachment points for stop loss insurance policies, and what factors are used to determine these attachment points?*
    - For specific stop-loss insurance, the range of available attachment points is generally $25,000 to $500,000. For aggregate stop-loss insurance, the attachment is generally 125% of expected paid claims.
- *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 attachment point varies by not only the group size but also the financial strength of the employer, the employer's risk tolerance, and often the length of time the employer has been self-funded.
- *What are the lowest attachment points that are available?*
    - Typically the lowest is $25,000 but some groups will have attachment points as low as $10,000.
- *What are the trends?*
    - The trend is undoubtedly higher. In the late 90s, specific attachment points of $5,000 - $10,000 were common. Today, I don't know that an employer could even obtain a $5,000 specific deductible and anything below $25,000 is rare.

Question #3:

- *Are employee-level (''specific'') attachment points more common, or are group-level (''aggregate'') attachment points more common?*
    - Without question, specific stop-loss is more common. Larger groups tend to forgo buying aggregate coverage because the risk is very predictable.
- *What are the trends?*
    - Over the last five years or so, there has been an increase in the marketing of a stop-loss product that combines the two coverages ("spaggregate" was the first of these products and was introduced several years ago).
- *What are the common attachment points for employee-level and group-level policies?*
    - Typically the lowest specific deductible (employee-level) is $25,000 but some groups will have attachment points as low as $10,000.
    - The aggregate (group-level) is almost universally set at 125% of expected paid claims.

Question #4:

- *How do insurers work with small employers to integrate stop loss insurance protection with self-insured group health plans?*
    - Typically through a third-party administrator (TPA).
- *What kinds of options are generally made available?*
    - The options are very much standardized and fairly limited with respect to the stop-loss provisions. The employer chooses the deductible and contract basis that best fits its tolerance for risk and budget.
- *Are policies customized to meet the needs of different employers?*
    - No, the policies are not customized as they are filed forms. However, the employer does have choices within a limited set of variables (i.e. deductible and contract basis).
- *How are the attachment points for a stop loss policy determined for an employer?*
    - The specific deductible is chosen by the employer while the aggregate is generally set by the carrier (typically at 125% of expected paid claims). In some cases, a carrier will not offer the specific deductible the employer requests, as it may be either too large or too small based on the group's size, and/or the carrier may allow the employer to select a lower aggregate attachment (i.e. 120% of EPC) in exchange for a higher premium.
- *Do self-insured group health plans purchase stop loss insurance anticipating that they will purchase it every year?*
    - In regards to the specific, the vast majority of the time the answer is yes (again, very large groups may choose to forgo stop loss altogether). In regards to the aggregate, this also depends on the size of the group but it is also true that the longer a group has been self-funded, the less likely they are to buy aggregate coverage.

Question #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?*
    - I do not have the data to answer this question.
- *How much do the relative percentages vary for different attachment points?*
    - I do not have the data to answer this question.
- *What are the loss ratios associated with stop loss insurance policies?*
    - The long-run average is between 80-90%.

Question #6:

- *What are the administrative costs to employers related to stop loss insurance purchased for the employers' self insured group health plans?*
    - *Expenses as a percentage of the total premium are typically 20-35% (depending on broker commission which accounts for the variance). However, the premium usually comprises only a third or less of the total plan costs. Therefore, the administrative costs associated with*

stop-loss insurance, stated as a percentage of total plan costs, are typically in the range of 7% to 12%, or less.

- *How do these costs compare to the administrative costs related to purchasing a health insurance policy from an issuer?*
    - They are less. As now mandated by PPACA, and has been the historic norm as well, administrative costs are 15%-20% of total premium.

Question #7:

- *Is stop loss insurance more prevalent in certain industries or sectors?*
    - According to the 2011 Kaiser Employer Health Benefits Annual Survey, "Transportation/Communications/Utilities" had a large percentage of covered employees in a self-funded plan (80%).
- *Are there any minimum employee participation requirements for a small employer to be offered stop loss insurance?*
    - Participation requirements do not very based on the size of the group. They are a function of whether the employer pays all or part of the employee's premium and tend to mirror the requirements in the fully-insured market.

Question #8:

- *What types of entities issue stop loss insurance?*
    - Stop-loss insurance is underwritten & issued either directly by the stop-loss carrier or on behalf of the stop-loss carrier by a managing general underwriter (MGU).
- *How many small entities issue stop loss insurance policies?*
    - There are approximately 50 MGUs in operation today.

Question #9:

- *Do stop loss issuers increase fees for groups below a certain size or exclude those groups? If so, how?*
    - I have not heard of higher fees for small groups. I have, however, seen examples of lower fees for smaller groups.
    - Some carriers do not write groups below a certain size. I also know of an example where an MGU won't write groups above a certain size.

Question #10:

- *How do stop loss insurers evaluate the plans seeking coverage and how is this evaluation reflected in the coverage or premiums offered?*
    - Just as in the fully-insured market, this depends on the size of the group. Smaller groups often don't have claims data available, and even if they do it's not credible, and thus they are priced based on the "manual". As the groups get bigger, each group's claims data is used more as a basis for determining the premium.
- *Does the profile of the plan have an effect on the attachment points available?*

- Other than group size, the answer is usually no. However, there are instances where the benefit plan can indirectly affect the specific deductible offered. For example, if a group has a very large deductible it will tend to have very low claims paid by the plan which, consequently, will result in a lower-than-average attachment point being calculated by the underwriter. In order to mitigate the risk of an aggregate loss being produced by an unusual number of specific losses, underwriters typically don't want the specific deductible to be more than 10-15% of the annual aggregate deductible. Therefore, if the aggregate calculation produces a lower-than-average attachment point due to a high plan deductible (or some other characteristic of the plan), this will result in the underwriter having to lower the high end of the available specific deductibles.

Question #11:

- *How do States regulate stop loss insurance?*
  - Much like other insurance products - the policy and riders must be filed and approved, the carrier must satisfy capital & surplus requirements, etc.
- *In States that are regulating this insurance, what are the licensing processes and standards?*
  - This depends on to whom or what you are referring. On the MGU side, we are licensed exactly the same as any insurance producer.
- *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?*
  - Yes. Typically, the states focus on the minimum specific deductible than can be sold but some states also establish rules pertaining to the aggregate attachment point.
- *What are the issues States face in regulating stop loss insurance?*
  - I would defer to the states to answer this question.

Question #12:

- *What effect does the availability of stop loss insurance with various attachment points and other particular provisions have on small employers' decisions to offer insurance to employees?*
  - In my opinion, it's of critical importance. Without stop-loss insurance, most small employers wouldn't be able to self-fund. This is no different than in many areas of commerce; without the ability to transfer & pool risk, many business activities would be possible to only the largest and wealthiest of companies.

Question #13:

- *What impact does the use of stop loss insurance by self-insured small employers have on the small group fully insured market?*
  - If one assumes the availability of stop-loss allows small groups to self-fund that otherwise would not (which I do), then the availability of stop-loss reduces the size of the small group fully-insured market. However, I have worked in both environments and based on my

personal observations, I can tell you that the impact is minimal. Further evidence of this conclusion can be found in various published reports.