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Employee Benefit Management Services, Inc.

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Office of Health Plan Standards and Compliance Assistance
Employee Benefits Security Administration, Room N-5653
Department of Labor
200 Constitution Ave, NW
Washington, DC 20210

Attn: Stop Loss Comments

To Whom It May Concern:

Employee Benefit Management Services, Inc., (EBMS) is a third party claims administrator for self-funded employer group health plans. EBMS appreciates the opportunity to offer comments to the Department of Labor, Department of Health and Human Services, and the Department of Treasury (the "agencies") in response to the agencies' request for information on stop loss insurance for self-insured employment-based health coverage.

EBMS addresses each question as follows:

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)?

All EBMS client employers that self-insure employee group health benefits have elected to purchase stop loss insurance. The decision of an employer to purchase stop loss insurance is based upon several factors, including the number of employees for that employer. Unless an employer is very large and/or well reserved, the employer elects to purchase stop loss insurance. For private employers that are subject to ERISA requirements for plan fiduciaries, stop loss insurance enables the employer to meet its fiduciary obligations to plan participants and beneficiaries. For non-federal governmental employers, stop loss insurance enables the employer to budget for and shield its taxpayer base from catastrophic claims experience.

Nationwide, approximately 60% of all employers elect to self-insure group health benefits, most of which elect to purchase stop loss insurance. As to the number of individuals covered through these self-insured plans, it is important to note that stop loss insurance does not insure individual plan participants, but rather the plan itself in the event that a catastrophic medical event requires the plan to pay out large sums to or on behalf of an individual plan participant. Stop loss insurance does not pay any benefits directly to plan participants, nor does the stop loss insurance company take over administration of the plan at the point that the specific attachment point is reached. Despite the availability of reimbursement from a stop loss insurance company, the plan retains all liability to the plan participants for claims incurred.

Over the past several years, the number of employers electing to self-insure group health benefits has trended upwards on average, 1% to 1.5% per year. EBMS anticipates this trend to continue, and notably due to the impact of the Affordable Care Act, further anticipates a slight increase in the numbers of smaller to medium sized employers entering the self-insured marketplace to gain greater control over the costs of employee group health benefits.

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, between 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?

Factors used to determine the attachment points are unique to each employer and take into consideration the past claims history of the employer's group health plan, the specific benefit design of the employer's group health plan, the demographics of the participant and beneficiaries, geographic region, employer's industry, financial status and reserves of employer, economic factors in general and specific to the employer's industry, and the risk tolerance of the employer.

Since numerous factors affect the level of stop loss protection that an employer elects to purchase, there are no common generalities that can be applied to set standards for attachment points in stop loss insurance policies. To illustrate, of the 35 EBMS client employers that elected specific stop loss insurance with a defined retention or deductible amount of $50,000 or less, 10 have at least 500 participants and beneficiaries enrolled in their self-insured group health plans. In contrast, of the 68 EBMS client employers that elected specific stop loss insurance with a deductible amount of at least $100,000, 24 have 500 or fewer participants and beneficiaries enrolled in their group health plans – including 4 employers with fewer than 200 participants and beneficiaries. The combined 34 employers represent a wide range of geographic locations and types of industries, as well as several non-federal governmental employers, including the gamut of small rural counties to larger urban colleges and counties.

The attachment points for aggregate stop loss insurance depend upon the claims history/loss ratio of the client employer and the margin used in the aggregate attachment point calculation. Aggregate stop loss insurance relates to claims that are less than the level of specific stop loss insurance elected by the employer. Claims that are reimbursed by specific stop loss coverage do not count towards the accumulation of aggregated claims protected by aggregate stop loss coverage. While there is no standard computation to set a level for specific stop loss insurance and aggregate stop loss protection, specific attachment points tend to be set at 3-10% of the total expected claims total and aggregate attachment points can be set anywhere from 110-200% (commonly 120-125%) of the expected claims cost. Size of the employer, past claims history and the benefit design are factors that stop loss insurance companies take into consideration when underwriting risk associated with an employer's group health plan.

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?

Most self-insured employers purchase both specific and aggregate stop loss coverage. As the size of the employer increases or decreases, the levels set for specific and aggregate may adjust. Very large national employers may elect one or the other, and some may forego stop loss insurance altogether.

While there is no standard computation to set a level for specific stop loss insurance and aggregate stop loss protection, as discussed previously, specific attachment points tend to be set at 3-10% of the total expected claims total and aggregate attachment points can be set anywhere from 110-200% (commonly 120-125%) of the expected claims cost.

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?

Assuming that a "small employer" means an employer with at least 2 and no more than 50 eligible employees, as defined by states for purposes of the small employer health insurance rules, small employers generally access the self-insurance market though a multiple employer welfare association (MEWA) plan (if the employer would be subject to ERISA), or an interlocal agreement between political subdivisions of a state (cities, counties, school districts). Instead of the individual employer or non-federal governmental employer, the MEWA or non-federal governmental trust would purchase specific and aggregate stop loss insurance on behalf of all participating employers of the MEWA or non-federal governmental trust. Each individual employer would make monthly contributions to the MEWA or non-federal governmental trust for its share of the stop loss insurance. The trustees of the MEWA or non-federal governmental trust would manage the funds to pay benefit claims, stop loss insurance premiums, and administrative costs. A MEWA or a non-federal governmental trust enables the smaller employers that did not have the size or financial resources to self-insure, the opportunity enjoyed by larger employers to achieve better control over plan design and operation.

Small employers, like larger employers, generally work with brokers, benefits consultants, and/or third party administrators to secure coverage through a MEWA or a non-federal governmental trust.

Stop loss insurance options for a MEWA or a non-federal governmental trust are generally similar to the options available to larger self-insured employers seeking to purchase stop loss insurance for their own group health plan. Depending upon the size and financial reserves of the MEWA and a non-federal governmental trust, the specific and aggregate attachment points may be set at a level higher than a single self-insured employer group health plan. Actuarial underwriting takes into consideration the same factors considered with single self-insured employer group health plans, including past claims history of the trust, specific benefit designs offered by the trust, demographics of the participant and beneficiary pool, geographic region, the industry or trade association (if a MEWA), financial status and reserves of the trust, economic factors in general, and the risk tolerance of the trustees. Stop loss policies are customized to the needs of the trust.

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 are the loss ratios associated with stop loss insurance policies?

In a self-insured group health plan, the plan retains liability for 100% of the claims expenses of participants and beneficiaries. After claims expenses have been paid by the plan, the sponsoring self-insured employer requests the stop loss carrier to reimburse the employer for the paid medical expenses. Across all EBMS client employers, an approximate 92% of all incurred medical expenses are paid by the sponsoring self-insured client employer (net of stop-loss reimbursements) and an approximate 8% is paid by the stop-loss insurer. For all EBMS client employers, the specific attachment point is an average of $200,000.

The relative percentage varies by employer, depending upon size, demographics of the employer's participants and beneficiaries, actual claims experience, and the specific stop loss policy levels. Generally, self-insured employers have retained proportionately more of the incurred medical expenses regardless of the specific and/or aggregate attachment point, but the self-insured employer's percentage decreases as the specific attachment point decreases. Generally, self-insured employers with lower specific attachment points (i.e. $25,000) attachment point) retain an approximate two-thirds of the overall incurred medical expenses.

Loss ratios are generally comparable to excess risk casualty insurance policies and apply similar formulas. Stop-loss insurance is not health insurance, and is in fact in most states, considered to be property and casualty coverage. The expenses, rate formulas, and underwriting manuals are different than those used in health insurance.

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?

Employers typically do not incur additional fees for the administration of stop loss policies. Generally, the costs associated with payment of stop loss premiums and processing requests for reimbursement to the stop loss carrier are incorporated into the global administration fee paid by a self-insured employer for third party administrator services. Administrative costs for self-insured employers related to the purchase of stop loss insurance for the employer's self-insured group health plan can range from 5-10%. Similar administrative costs for a fully insured policy can be as much as twice these administrative costs.

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?

Stop loss insurance options are broadly available across almost all employer industry classifications, but can be more limited in multiple employer markets (i.e. MEWA).

There are no minimum employee participation requirements for a small employer, but most stop loss insurance carriers require a certain percentage of enrolled participants and beneficiaries. Typically, the percentage ranges from 75-80% of eligible employees.

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

Stop loss insurance is issued by large insurance carriers, subsidiaries of large insurance carriers, stop loss insurance carriers, managing general underwriters (with the backing of a reinsurer or stop loss carrier) and can be offered through risk retention groups or captive insurance companies in some states.

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

No. Premiums charged by stop loss insurance carriers are not based upon the size of the employer, but rather on the claims loss experience and size of the claims total. Generally speaking, the lower the attachment point, the higher the stop loss premium paid by the employer.

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

Stop loss insurance underwriting relies upon actuarial rate manuals blended with the characteristics of the self-insured employer's industry, business structure, operations, union contracts, anticipated and actual enrollment characteristics, and actual claims experience to evaluate an employer's plan for stop loss insurance, to set premiums and actuarially appropriate attachment points.

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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?

Regulation of stop loss insurance varies by state. State insurance departments regulate the carriers, managing general underwriters, risk retention groups, and captive insurance companies that offer stop loss insurance. Carriers must have stop loss policies approved by all State insurance departments in which they do business, and have certain annual reporting requirements. States will typically regulate regarding size and minimum specific and aggregate attachment points (based on percentage of expected claims or minimum dollar amounts). Some states prohibit carriers from selling stop loss policies with attachment points below a specified limit, such as $25,000.

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?

The decision of every employer to self-insure or to fully insure is unique to that employer and affected by many factors. Limiting the availability of stop loss insurance to a certain size of employer essentially limits the options that an employer has to provide health coverage to employees.

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

Use of stop loss insurance by self-insured small employers has a large impact on the small group fully-insured markets. As a result of having lower specific stop loss deductibles and attachment points, the premiums paid for stop loss insurance by these smaller self-funded employers becomes a larger part of the overall cost of the benefit program. If through underwriting, stop loss insurance remains competitive because of a favorable loss ratio, the direct impact to that smaller employer will be the opportunity to continue to self-insure its group health plan.

Thanks in advance for your consideration of our written comments.

Sincerely,

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