

Chapter 43 Small Employer Stop-Loss Insurance Act

Part 1 General Provisions

31A-43-101 Title.

This chapter is known as the "Small Employer Stop-Loss Insurance Act."

Enacted by Chapter 341, 2013 General Session

31A-43-102 Definitions.

For purposes of this chapter:

- (1) "Actuarial certification" means a written statement by a member of the American Academy of Actuaries, or by another individual acceptable to the commissioner, that an insurer is in compliance with this chapter, based upon the individual's examination and including a review of the appropriate records and the actuarial assumptions and methods used by the stop-loss insurer in establishing attachment points and other applicable determinations in conjunction with the provision of stop-loss insurance coverage.
- (2) "Aggregate attachment point" means the dollar amount of covered claims incurred by a small employer plan beyond which the stop-loss insurer incurs liability for losses incurred by the small employer plan, subject to limitations included in the contract.
- (3) "Coverage" means the combination of the employer plan design and the stop-loss contract design.
- (4) "Expected claims" means the amount of claims that, in the absence of aggregate stop-loss insurance, are projected to be incurred by a small employer health plan using reasonable and accepted actuarial principles.
- (5) "Lasering":
 - (a) means increasing or removing stop-loss coverage for a specific individual within an employer group; and
 - (b) includes other practices that are prohibited by the commissioner by administrative rule that result in lowering the stop-loss premium for the employer by transferring the risk for an individual's claims back to the employer.
- (6) "Small employer" means an employer who, with respect to a calendar year and to a plan year:
 - (a) employed an average of at least two employees but not more than 50 eligible employees on each business day during the preceding calendar year; and
 - (b) employs at least two employees on the first day of the plan year.
- (7) "Specific attachment point" means the dollar amount of covered claims attributable to a single individual covered by a small employer plan in a contract year beyond which the stop-loss insurer assumes the liability for losses incurred by the small employer plan, subject to limitations included in the contract.
- (8) "Stop-loss insurance" means insurance purchased by a small employer for which the stop-loss insurer assumes all loss amounts of the small employer's plan in excess of a stated amount, subject to the policy limit.

Amended by Chapter 290, 2014 General Session

Amended by Chapter 300, 2014 General Session

Part 2 Scope of Chapter

31A-43-201 Scope of chapter.

- (1) This chapter establishes criteria for the issuance of stop-loss insurance contracts or re-insurance contracts for small employers that establish self-funded or partially self-funded health plans for the small employer's employees. This chapter does not:
 - (a) impose any requirement or duty on any person other than a stop-loss insurer or re-insurer who issues a stop-loss insurance contract to a small employer;
 - (b) treat any stop-loss insurance contract as a direct policy of health insurance; or
 - (c) constitute an attempt to exercise authority over self-funded or partially self-funded health benefit plans sponsored by a small employer.
- (2) This chapter applies to a small employer stop-loss contract issued or renewed on or after July 1, 2013.

Enacted by Chapter 341, 2013 General Session

31A-43-202 Laws applicable to stop-loss insurance.

A stop-loss insurance contract or a re-insurance contract issued to a small employer that establishes a self-funded or partially self-funded health plan:

- (1) is not reinsurance under this title, and is not subject to the regulations for reinsurance under this title;
- (2) is subject to regulation as stop-loss insurance under this chapter; and
- (3) is subject to the contract provisions of this title in the same manner as insurance contracts issued by any other insurer.

Enacted by Chapter 341, 2013 General Session

Part 3 Stop-Loss Insurance

31A-43-301 Stop-loss insurance coverage standards.

- (1) A small employer stop-loss insurance contract shall:
 - (a) be issued to the small employer to provide insurance to the group health benefit plan, not the employees of the small employer;
 - (b) have a contract term with guaranteed rates for at least 12 months, without adjustment, unless there is a change in the benefits provided under the small employer's health plan during the contract period;
 - (c) include both a specific attachment point and an aggregate attachment point in a contract;
 - (d) align stop-loss plan benefit limitations and exclusions with a small employer's health plan benefit limitations and exclusions, including any annual or lifetime limits in the employer's health plan;
 - (e) have an annual specific attachment point that is at least \$10,000;

- (f) have an annual aggregate attachment point that may not be less than 85% of expected claims;
 - (g) pay stop-loss claims:
 - (i) incurred during the contract period; and
 - (ii) paid within 12 months after the expiration date of the contract; and
 - (h) include provisions to cover incurred and unpaid stop-loss claims when the small employer's stop-loss plan terminates.
- (2) A small employer stop-loss contract shall not:
- (a) include lasering; and
 - (b) pay claims directly to an individual employee, member, or participant.

Amended by Chapter 244, 2015 General Session

31A-43-302 Stop-loss restrictions -- Filing requirements.

- (1) A stop-loss insurer shall file the stop-loss insurance contract form and rate methodology with the commissioner pursuant to Sections 31A-2-201 and 31A-2-201.1 before the stop-loss insurance contract may be issued or delivered in the state.
- (2) A stop-loss insurer shall file with the commissioner, annually on or before April 1, in a form and manner required by the commissioner by administrative rule adopted by the commissioner:
 - (a) an actuarial memorandum and certification which demonstrates that the insurer is in compliance with this chapter; and
 - (b) the stop-loss insurer's stop-loss experience.
- (3) An insurer shall maintain at its principal place of business:
 - (a) a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate the rating methods and practices are:
 - (i) based upon commonly accepted actuarial assumptions; and
 - (ii) in accordance with sound actuarial principles; and
 - (b) a copy of the annual filing required by Subsection (2).

Amended by Chapter 290, 2014 General Session

Amended by Chapter 300, 2014 General Session

31A-43-303 Stop-loss insurance disclosure.

A stop-loss insurance contract delivered, issued for delivery, or entered into shall include the disclosure exhibit required by the commissioner through administrative rule, which shall include at least the following information:

- (1) the complete costs for the stop-loss contract;
- (2) the date on which the insurance takes effect and terminates, including renewability provisions;
- (3) the aggregate attachment point and the specific attachment point;
- (4) limitations on coverage;
- (5) an explanation of monthly accommodation and disclosure about any monthly accommodation features included in the stop-loss contract;
- (6) a description of terminal liability funding, including the cost of processing claims before and after the termination of the contract;
- (7) maximum claims liability to the employer; and
- (8) a summary of the policy.

Amended by Chapter 319, 2018 General Session

31A-43-304 Administrative rules.

The commissioner may adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

- (1) implement this chapter;
- (2) define lasering practices that are prohibited by this chapter;
- (3) establish the form and manner of the actuarial certification and the annual report on stop-loss experience required by Section 31A-43-302;
- (4) establish the form and manner of the disclosure required by Section 31A-43-303;
- (5) assure the rates associated with the specific attachment points and aggregate attachment points are actuarially sound and are not against the public interest; and
- (6) assure that stop-loss contracts include provisions to cover incurred and unpaid claims if a small employer plan terminates.

Amended by Chapter 290, 2014 General Session

Amended by Chapter 300, 2014 General Session