



# STATE OF CONNECTICUT

## INSURANCE DEPARTMENT

BULLETIN HC-126  
MAY 6, 2019

TO: ALL INSURANCE COMPANIES, FRATERNAL BENEFIT SOCIETIES, HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS AND HEALTH CARE CENTERS THAT ARE LICENSED IN CONNECTICUT TO WRITE ACCIDENT AND HEALTH INSURANCE

SUBJECT: STOP LOSS INSURANCE POLICIES (a/k/a EXCESS REIMBURSEMENT INSURANCE POLICIES OR EXCESS INSURANCE COVERAGE POLICIES)

This Bulletin repeals and replaces Bulletin HC-120 dated August 1, 2018. Bulletin HC-120 provided regulatory guidance and clarity on stop-loss insurance policies by rescinding and then combining provisions of four bulletins issued in 2014 and 2015 (HC-108 & PC-80 issued on November 12, 2015 and HC-95 & PC-75 issued March 17, 2014) and made no substantive changes other than to add retiree health products. **This new Bulletin HC-126 makes no substantive changes other than to clarify the meaning of “group members”.**

**ACTIVE EMPLOYEE HEALTH PLANS.** A stop loss insurance policy insures the employer or its group health plan not the enrollees covered by the plan. Payment of incurred claims under such policies is made to the plan rather than the individual employee. The specific aggregate amount required to trigger the stop loss coverage will not or is not likely to be reached. Stated another way, the claim liability limits should not be set so low that payment by the stop loss insurer is an actuarial certainty.

Insurers are advised that the Department will not approve and an insurer shall not issue a stop loss policy that:

- Has an annual attachment point for claims incurred per individual that is lower than \$20,000;
- Has an annual aggregate attachment point for groups of fifty (50) or fewer, that is lower than the greater of:
  - \$4,000 times the number of group members;\*
  - 120% of expected claims; or
  - \$20,000.
- Has an annual aggregate attachment point for groups of fifty-one (51) or more that is lower than 110% of expected claims; or
- Provides direct coverage of health care expenses of an individual.

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\* In this context, “members” means employees.

An insurer shall determine the number of persons in a group consistent with Connecticut General Statutes § 38a-564.

The Department would like to make the industry aware that recent stop loss filings have included provisions that are common in health insurance policies, but inappropriate for stop loss policies. A key issue is that stop loss carriers are making individual claims determinations that may be different than those made in the underlying group health policy. A self-funded employer remains legally responsible to pay the claims under the group health plan, but may be financially unable to fulfill its fiduciary obligations due to the limitations found in the stop loss policy.

Stop loss policies will not be approved if they contain provisions relating to the following:

- Claims denials that the employer is legally obligated to pay under the health plan
- Medical necessity determinations
- Usual or customary determinations
- Experimental/investigational determinations
- Case management requirements
- Annual dollar limitations in specific coverages or for specific enrollees
- Mandated provider networks/benefit incentives for enrollees
- Requirements that enrollees be actively at work
- Right to examine enrollees
- Rescission for reasons other than fraud or intentional misrepresentation
- Early termination at the discretion of the carrier other than in accordance with cancellation and nonrenewal laws applicable to these policies
- Terms or conditions that are misleading, deceptive or contrary to the public interest
- Mid-term rate increases at the discretion of carrier
- Provisions that conflict with state law
- Other provisions that are deemed to be health insurance and inappropriate for an excess loss policy

Lasering is the practice of assigning a different attachment point or deductible or denying coverage altogether for an individual employee or dependent that has a pre-existing, high cost medical condition or other identified risk. Insurers may use lasers when underwriting stop-loss plans, but no attachment point for an enrollee shall exceed three times the attachment point chosen for the policy. Lasers cannot be added or changed after the effective date of the policy. Insurers and producers shall fully disclose the increased risk when a laser is used along with any available options to the policyholder. If any lasers are used, the application shall include a statement that the financial risk was fully explained to the policyholder and that the policyholder understands such risk. The signatures of both the policyholder and producer shall be required below such statement if any lasers are used.

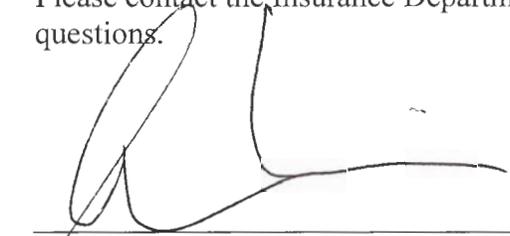
**RETIRED EMPLOYEE HEALTH PLANS.** Insurers are further advised that stop-loss policies may be issued with respect to retiree health plans. However, stop-loss policies applicable issued in connection with retiree health plans would not be subject to the above conditions for issuance since the magnitude of the risks associated with retiree plans are

significantly different than those applicable to active employee health plans. The Department will review these plans on a case-by-case basis.

All policy form filings should be made through the System for Electronic Rate and Form Filings in accordance with Bulletin IC-26 dated November 8, 2010. For changes to currently approved forms in compliance with this bulletin, carriers may simply file amendatory language. The filing should indicate the state tracking number of all policies to which the amendment is being made and the date such filings were previously approved. A red-lined version should be included in the filing.

### **Questions**

Please contact the Insurance Department Life and Health Division at [cid.lh@ct.gov](mailto:cid.lh@ct.gov) with any questions.



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Andrew N. Mais  
Insurance Commissioner