

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 13-0850.01 Bart Miller x2173

HOUSE BILL 13-1290

HOUSE SPONSORSHIP

McCann,

SENATE SPONSORSHIP

Aguilar,

House Committees

Health, Insurance & Environment

Senate Committees

Health & Human Services

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF STOP-LOSS HEALTH INSURANCE**
102 **USED IN CONJUNCTION WITH SELF-INSURED HEALTH CARE**
103 **COVERAGE IN EMPLOYER BENEFIT PLANS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill makes the following changes to the law regulating stop-loss health insurance used in conjunction with self-insured small employer benefit plans:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
2nd Reading Unamended
May 3, 2013

HOUSE
3rd Reading Unamended
April 22, 2013

HOUSE
Amended 2nd Reading
April 19, 2013

- ! Makes terminology used in the Colorado law consistent with that used by the national association of insurance commissioners by changing the term "excess loss" to "stop-loss"; and
- ! Sets requirements for the issuance of stop-loss health insurance, including a minimum dollar amount for the attachment point and a prohibition against attachment points that vary by individual within a group for claims incurred per individual.

For calendar years 2013 through 2018, requires insurers issuing excess or stop-loss health insurance policies to file specified information with the commissioner on those policies.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 10-16-119, **add** (3)
3 as follows:

4 **10-16-119. Requirements for excess loss or stop-loss health**
5 **insurance used in conjunction with self-insured employer benefit**
6 **plans under the federal "Employee Retirement Income Security Act"**
7 **- data collection 2013 - 2018 - rules - repeal.** (3) (a) FOR CALENDAR
8 YEARS 2013 THROUGH 2018, AN INSURER THAT SELLS EXCESS LOSS OR
9 STOP-LOSS HEALTH INSURANCE POLICIES SHALL FILE WITH THE
10 COMMISSIONER ANNUALLY, IN THE FORM AND MANNER REQUIRED BY THE
11 COMMISSIONER BY RULE, INFORMATION INCLUDING THE FOLLOWING:

12 (I) THE TOTAL NUMBER AND AVERAGE GROUP SIZE OF EXCESS LOSS
13 OR STOP-LOSS HEALTH INSURANCE POLICIES SOLD TO EMPLOYER GROUPS
14 WITH THE FOLLOWING NUMBER OF FULL-TIME EQUIVALENT EMPLOYEES:

15 (A) TEN OR FEWER;

16 (B) ELEVEN TO TWENTY-FIVE;

17 (C) TWENTY-SIX TO FIFTY; AND

18 (D) FIFTY-ONE TO ONE HUNDRED;

19 (II) THE NUMBER OF LIVES COVERED IN COLORADO FOR EACH

1 GROUP SIZE SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a);
2 (III) THE MEAN AND MEDIAN ATTACHMENT POINTS BY THE GROUP
3 SIZES SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a);
4 (IV) THE SOURCE OF PRIOR COVERAGE FOR THE GROUPS SPECIFIED
5 IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), INCLUDING:
6 (A) EMPLOYERS PREVIOUSLY SELF-INSURED WITH EXCESS LOSS OR
7 STOP-LOSS HEALTH INSURANCE COVERAGE;
8 (B) EMPLOYERS PREVIOUSLY SELF-INSURED WITHOUT EXCESS LOSS
9 OR STOP-LOSS HEALTH INSURANCE COVERAGE;
10 (C) EMPLOYERS PREVIOUSLY NOT OFFERING COVERAGE;
11 (D) GROUPS PREVIOUSLY FULLY INSURED OUTSIDE THE COLORADO
12 HEALTH BENEFIT EXCHANGE, CREATED IN ARTICLE 22 OF THIS TITLE; AND
13 (E) GROUPS PREVIOUSLY FULLY INSURED INSIDE THE COLORADO
14 HEALTH BENEFIT EXCHANGE, CREATED IN ARTICLE 22 OF THIS TITLE; AND
15 (V) THE SMALLEST GROUP SIZE COVERED AND INSURER MINIMUM
16 GROUP SIZE REQUIREMENTS.
17 (b) THE COMMISSIONER SHALL COLLECT THE INFORMATION
18 IDENTIFIED IN THIS SUBSECTION (3) ANNUALLY FOR EACH CALENDAR YEAR
19 FROM 2013 THROUGH 2018 AND MAKE THE DATA AVAILABLE TO THE
20 PUBLIC.
21 (c) IF AN INSURER THAT ISSUES ONE OR MORE STOP-LOSS HEALTH
22 INSURANCE POLICIES DOES NOT ANNUALLY FILE THE INFORMATION
23 REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (3) BY THE DATE
24 SPECIFIED BY RULES OF THE COMMISSIONER, THE COMMISSIONER MAY
25 ASSESS A PENALTY OF UP TO ONE HUNDRED DOLLARS PER DAY FOR EACH
26 DAY AFTER THE DATE THE INFORMATION IS DUE THAT THE INSURER FAILS
27 TO SUBMIT THE REQUIRED INFORMATION.

1 (d) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE SEPTEMBER 1,
2 2019.

3 **SECTION 2.** In Colorado Revised Statutes, **add** 10-16-119.5 as
4 follows:

5 **10-16-119.5. Stop-loss health insurance for small employers of**
6 **not more than fifty employees - requirements - definitions - rules.**

7 (1) NOTWITHSTANDING SECTION 10-16-119, THE PURPOSE OF THIS
8 SECTION IS TO ESTABLISH CRITERIA FOR THE ISSUANCE OF STOP-LOSS
9 HEALTH INSURANCE POLICIES TO ANY PERSON, FIRM, CORPORATION,
10 PARTNERSHIP, OR ASSOCIATION ACTIVELY ENGAGED IN BUSINESS THAT
11 EMPLOYED AN AVERAGE OF AT LEAST ONE BUT NOT MORE THAN FIFTY
12 ELIGIBLE EMPLOYEES ON BUSINESS DAYS DURING THE IMMEDIATELY
13 PRECEDING CALENDAR YEAR. THIS SECTION DOES NOT IMPOSE ANY
14 REQUIREMENT OR DUTY ON ANY PERSON OTHER THAN AN INSURER
15 OFFERING STOP-LOSS HEALTH INSURANCE POLICIES TO ANY PERSON, FIRM,
16 CORPORATION, PARTNERSHIP, OR ASSOCIATION ACTIVELY ENGAGED IN
17 BUSINESS THAT EMPLOYED AN AVERAGE OF AT LEAST ONE BUT NOT MORE
18 THAN FIFTY ELIGIBLE EMPLOYEES ON BUSINESS DAYS DURING THE
19 IMMEDIATELY PRECEDING CALENDAR YEAR OR TREAT ANY STOP-LOSS
20 HEALTH INSURANCE POLICY AS A DIRECT POLICY OF HEALTH INSURANCE.

21 (2) AN INSURER SHALL NOT ISSUE A STOP-LOSS HEALTH INSURANCE
22 POLICY TO ANY PERSON, FIRM, CORPORATION, PARTNERSHIP, OR
23 ASSOCIATION ACTIVELY ENGAGED IN BUSINESS THAT EMPLOYED AN
24 AVERAGE OF AT LEAST ONE BUT NOT MORE THAN FIFTY ELIGIBLE
25 EMPLOYEES ON BUSINESS DAYS DURING THE IMMEDIATELY PRECEDING
26 CALENDAR YEAR THAT:

27 (a) HAS AN ANNUAL ATTACHMENT POINT FOR CLAIMS INCURRED

1 PER INDIVIDUAL THAT IS LOWER THAN TWENTY THOUSAND DOLLARS;
2 (b) HAS AN ANNUAL AGGREGATE ATTACHMENT POINT [REDACTED]
3 LOWER THAN THE GREATER OF:
4 (I) ONE HUNDRED TWENTY PERCENT OF EXPECTED CLAIMS; OR
5 (II) TWENTY THOUSAND DOLLARS;
6 (c) PROVIDES DIRECT COVERAGE OF HEALTH CARE EXPENSES OF AN
7 INDIVIDUAL;
8 (d) VARIES BY INDIVIDUAL WITHIN THE GROUP THE ANNUAL
9 ATTACHMENT POINT FOR CLAIMS INCURRED PER INDIVIDUAL; OR
10 (e) EXCLUDES ANY EMPLOYEE OR ELIGIBLE DEPENDENT FROM THE
11 STOP-LOSS HEALTH INSURANCE COVERAGE.
12 (3) THE COMMISSIONER MAY, BY RULE, CHANGE THE DOLLAR
13 AMOUNTS IN SUBSECTION (2) OF THIS SECTION BASED UPON CHANGES IN
14 THE MEDICAL COMPONENTS OF THE CONSUMER PRICE INDEX FOR THE
15 DENVER-BOULDER-GREELEY METROPOLITAN STATISTICAL AREA. ANY
16 CHANGE IN THESE DOLLAR AMOUNTS MUST BE MADE AT LEAST SIX
17 MONTHS PRIOR TO THE EFFECTIVE DATE OF THE CHANGE.
18 [REDACTED]
19 (4) AN INSURER THAT ISSUES ONE OR MORE STOP-LOSS HEALTH
20 INSURANCE POLICIES TO ANY PERSON, FIRM, CORPORATION, PARTNERSHIP,
21 OR ASSOCIATION ACTIVELY ENGAGED IN BUSINESS THAT EMPLOYED AN
22 AVERAGE OF AT LEAST ONE BUT NOT MORE THAN FIFTY ELIGIBLE
23 EMPLOYEES ON BUSINESS DAYS DURING THE IMMEDIATELY PRECEDING
24 CALENDAR YEAR SHALL FILE WITH THE COMMISSIONER ANNUALLY AN
25 ACTUARIAL CERTIFICATION CERTIFYING THAT THE INSURER IS IN
26 COMPLIANCE WITH THIS SECTION. THE CERTIFICATION MUST BE IN A FORM
27 AND MANNER AND CONTAIN INFORMATION AS REQUIRED BY THE

1 COMMISSIONER.

2 (5) FOR EACH STOP LOSS HEALTH INSURANCE POLICY DELIVERED,
3 ISSUED FOR DELIVERY, OR ENTERED INTO, THE INSURER SHALL PREPARE A
4 SEPARATE EXHIBIT TO BE GIVEN TO THE INSURED WITH THE POLICY
5 CONTAINING AT LEAST THE FOLLOWING INFORMATION:

6 (a) THE COMPLETE COSTS FOR THE STOP LOSS HEALTH INSURANCE
7 POLICY;

8 (b) THE DATE ON WHICH THE STOP LOSS HEALTH INSURANCE
9 POLICY TAKES EFFECT AND TERMINATES, INCLUDING RENEWABILITY
10 PROVISIONS;

11 (c) THE AGGREGATE ATTACHMENT POINT AND THE SPECIFIC
12 ATTACHMENT POINT FOR THE STOP LOSS HEALTH INSURANCE POLICY;

13 (d) ANY LIMITATIONS ON COVERAGE;

14 (e) AN EXPLANATION OF MONTHLY ACCOMMODATION AND
15 DISCLOSURE ABOUT ANY MONTHLY ACCOMMODATION FEATURES
16 INCLUDED IN THE STOP LOSS HEALTH INSURANCE POLICY; AND

17 (f) A DESCRIPTION OF TERMINAL LIABILITY FUNDING, INCLUDING:

18 (I) COSTS OF PROCESSING CLAIMS BEFORE AND AFTER THE
19 TERMINATION OF THE POLICY; AND

20 (II) MAXIMUM CLAIMS LIABILITY TO THE EMPLOYER.

21 (6) AS USED IN THIS SECTION:

22 (a) "ACTUARIAL CERTIFICATION" MEANS A WRITTEN STATEMENT
23 BY A MEMBER OF THE AMERICAN ACADEMY OF ACTUARIES, OR BY
24 ANOTHER INDIVIDUAL ACCEPTABLE TO THE COMMISSIONER, THAT AN
25 INSURER IS IN COMPLIANCE WITH THIS SECTION, BASED UPON THE
26 INDIVIDUAL'S EXAMINATION AND INCLUDING A REVIEW OF THE
27 APPROPRIATE RECORDS AND THE ACTUARIAL ASSUMPTIONS AND METHODS

1 USED BY THE INSURER IN ESTABLISHING ATTACHMENT POINTS AND OTHER
2 APPLICABLE DETERMINATIONS IN CONJUNCTION WITH THE PROVISION OF
3 STOP-LOSS HEALTH INSURANCE COVERAGE.

4 (b) "ATTACHMENT POINT" MEANS THE CLAIMS AMOUNT INCURRED
5 BY AN INSURED GROUP BEYOND WHICH THE INSURER INCURS A LIABILITY
6 FOR PAYMENT.

7 (c) "EXPECTED CLAIMS" MEANS THE AMOUNT OF CLAIMS THAT, IN
8 THE ABSENCE OF A STOP-LOSS HEALTH INSURANCE POLICY OR OTHER
9 INSURANCE, ARE PROJECTED TO BE INCURRED BY AN INSURED GROUP
10 THROUGH ITS HEALTH PLAN.

11 **SECTION 3. Effective date - applicability.** (1) Sections 1 and
12 4 of this act and this section 3 take effect July 1, 2013.

13 (2) Section 2 of this act takes effect January 1, 2014, and applies
14 to small employer stop-loss health insurance policies used in conjunction
15 with self-insured employer benefit plans issued or renewed on or after
16 said date.

17 **SECTION 4. Safety clause.** The general assembly hereby finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, and safety.