**SB 703**

# Department of Legislative Services

Maryland General Assembly
2015 Session

## FISCAL AND POLICY NOTE

Senate Bill 703 (Senator Middleton)
Finance

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**Health Insurance - Medical Stop-Loss Insurance - Small Employers**

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This bill increases the minimum attachment points for medical stop-loss insurance issued or delivered in the State. Policies and contracts issued prior to January 1, 2015, are grandfathered. Annually by April 1, a medical stop-loss insurer must file with the Insurance Commissioner an actuarial certification that the insurer is in compliance with the required minimum attachment points. The bill also establishes requirements and prohibitions for medical stop-loss insurance issued to a small employer.

The bill takes effect June 1, 2015, and applies to all medical stop-loss insurance policies and contracts issued, delivered, or renewed in the State on or after that date.

## Fiscal Summary

**State Effect:** Minimal increase in special fund revenues for the Maryland Insurance Administration (MIA) beginning in FY 2016 from rate and form filing fees. Special fund revenues further increase to the extent the Insurance Commissioner imposes penalties on medical stop-loss insurers who fail to comply with the bill's requirements. Any additional workload can be absorbed with existing budgeted resources. No effect of the State Employee and Retiree Health and Welfare Benefits Program.

**Local Effect:** None.

**Small Business Effect:** Meaningful.

## Analysis

**Bill Summary:**

*Attachment Points:* A specific attachment point (the dollar amount in losses attributable to a single individual in a policy year beyond which the medical stop-loss insurer assumes liability for losses incurred by the insured) may be no less than $40,000. An aggregate attachment point (the percentage of expected claims in a policy year above which the medical stop-loss insurer assumes liability for losses incurred by the insured) may be no less than 125% of expected claims. The bill also specifies that a medical stop-loss insurer may not *renew* a policy or contract unless it meets these requirements.

These provisions do not apply to medical stop-loss insurance issued or delivery before January 1, 2015 (or the renewal of such insurance), if the policy or contract maintains a specific attachment point of at least $10,000 and an aggregate attachment point of at least 115% of expected claims.

*Stop-loss Insurance Issued to Small Employers:* A medical stop-loss insurer may not increase cost sharing or decrease or remove stop-loss coverage for a specific individual within a small employer's health benefit plan, or exclude any employee or dependent from a policy or contract based on an actual or expected health status-related factor or condition. A medical stop-loss insurer must (1) guarantee rates for at least 12 months, unless there is a change in benefits; (2) pay stop-loss claims incurred during the policy or contract period and submitted within 12 months after the expiration of the policy or contract; and (3) disclose to the small employer the following regarding the contract or policy: total costs, the effective and termination dates, renewal provisions, attachment points, and limitations on coverage.

**Current Law:** "Medical stop-loss insurance" means insurance, other than reinsurance that is purchased by a person other than a carrier or health care provider, to protect the person against catastrophic, excess, or unexpected losses incurred by that person's obligations to third parties under the terms of a health benefit plan.

"Small employer" means an employer that, during the preceding calendar year, employed an average of up to 50 employees (if the preceding calendar year ended by January 1, 2016) and 100 employees (if the preceding calendar year ended after January 1, 2016).

Medical stop-loss insurance may only be sold, issued, or delivered in the State by a carrier that holds a certificate of authority issued by the Insurance Commissioner that authorizes the insurer to engage in the business of health insurance or to act as a nonprofit health service plan. A medical stop-loss insurer may not issue, deliver, or offer a policy or contract with a specific attachment point of less than $10,000 or an aggregate attachment point of less than 115% of expected claims.

A medical stop-loss insurer who offers or issues a medical stop-loss insurance policy that does not meet statutory requirements is subject to existing sanctions. For authorized insurers (§ 4-113 of the Insurance Article), sanctions include refusal to renew, suspension, or revocation of a certificate of authority and/or a penalty of at least $100 but no more than $125,000 for each violation as well as a restitution requirement. Per § 4-212 of the Insurance Article, an unauthorized insurer is subject to a civil penalty of at least $100 but no more than $50,000 for each violation.

**Background:** Stop-loss insurance is a product that provides protection against catastrophic or unpredictable losses. It is purchased by employers that self-fund their employee benefit plans but do not want to assume 100% of the liability for losses. Stop-loss insurance comes in two forms: *specific and aggregate.* Specific stop-loss is excess risk coverage that provides protection for the employer against a high claim on any one individual. Aggregate stop-loss provides a ceiling on the dollar amount of total eligible expenses that an employer pays during a contract period. A medical stop-loss insurer reimburses the employer after the end of the policy or contract period for aggregate claims. MIA advises that there are about 70 insurers selling medical stop-loss insurance in Maryland.

In March 2014, Milliman issued a report, *Policy Characteristics in the Employer Medical Stop-Loss Market*, for the Self Insurance Educational Foundation. The report summarizes the distribution of key policy characteristics found in the U.S. employer medical stop-loss insurance market for calendar 2013. The median specific deductible found across all plans was $85,000. For groups of 50 or fewer covered employees, the median deductible was $30,000. For groups of 51 to 100 employees, the median was $45,000. In Maryland, the median deductible was $100,000, with an average deductible of $145,000. Employers purchased aggregate corridors ranging from 85% to 200% of expected claims, with the most common corridor (found on nearly 90% of policies with aggregate coverage) being 125% of expected claims.

**Small Business Effect:** Small businesses likely benefit from the protections specified for medical stop-loss policies and contracts issued to small employers (*i.e.*, guaranteed rates). Increased attachment points may reduce premiums for stop-loss insurance; however, purchasing policies or contracts with higher attachments points may subject small employers to greater upfront financial risk in covering claims.

## Additional Information

**Prior Introductions:** None.

**Cross File:** HB 552 (Delegates Pendergrass and Hammen) - Health and Government Operations.

**Information Source(s):** Milliman; Self-Insurance Institute of America, Inc.; Department of Budget and Management; Department of Health and Mental Hygiene; Maryland Insurance Administration; Department of Legislative Services

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