

HOUSE BILL 552

C3

5lr1382
CF SB 703

By: **Delegates Pendergrass and Hammen**

Introduced and read first time: February 11, 2015

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: April 2, 2015

CHAPTER _____

1 AN ACT concerning

2 **Health Insurance – Medical Stop–Loss Insurance – Small Employers**

3 FOR the purpose of altering, with ~~a certain exception~~ certain exceptions, certain
4 attachment points above which a medical stop–loss insurer assumes certain liability
5 for losses incurred by an insured; applying the altered attachment points to renewal
6 of a policy or contract of medical stop–loss insurance; prohibiting a medical stop–loss
7 insurer, for a certain policy or contract, from taking certain actions; requiring a
8 medical stop–loss insurer, for a certain policy or contract, to guarantee certain rates,
9 pay certain claims within a certain period, and disclose certain information to a small
10 employer; ~~requiring a medical stop–loss insurer, on or before a certain date each~~
11 ~~year, to file a certain actuarial certification with the Maryland Insurance~~
12 ~~Commissioner;~~ requiring the Maryland Insurance Administration to conduct a study
13 of the use of medical stop–loss insurance in self–funded employer health plans;
14 requiring the Administration to solicit information from stakeholders, including
15 certain persons, and hold certain hearings; requiring the study to include certain
16 matters; requiring the Administration to submit certain reports to the Governor and
17 certain legislative committees on or before certain dates; providing for the
18 application of this Act; providing for the termination of this Act; defining a certain
19 term; making ~~a certain conforming change~~ certain conforming changes; and
20 generally relating to medical stop–loss insurance.

21 BY repealing and reenacting, with amendments,

22 Article – Insurance

23 Section 15–129

24 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2011 Replacement Volume and 2014 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Insurance

15–129.

(a) (1) In this section the following words have the meanings indicated.

(2) “Aggregate attachment point” means the percentage of expected claims in a policy year above which the medical stop–loss insurer assumes all or part of the liability for losses incurred by the insured.

(3) “Carrier” means:

(i) an insurer; or

(ii) a nonprofit health service plan.

(4) “Expected claims” means the amount of claims that, in the absence of medical stop–loss insurance, are projected to be incurred by the insured using reasonable and accepted actuarial principles.

(5) “Medical stop–loss insurance” means insurance, other than reinsurance, that is purchased by a person, other than a carrier or a 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.

(6) “Medical stop–loss insurer” means a carrier that is authorized to sell, issue, and deliver policies of medical stop–loss insurance in the State.

(7) “SMALL EMPLOYER” HAS THE MEANING STATED IN § 31–101 OF THIS ARTICLE.

[(7)] (8) “Specific attachment point” means the dollar amount in losses attributable to a single individual in a policy year beyond which the medical stop–loss insurer assumes all or part of the liability for losses incurred by the insured.

(b) **[This] SUBJECT TO SUBSECTION (D)(2) OF THIS SECTION, THIS** section applies to each medical stop–loss insurer and each medical stop–loss insurance policy or contract that is delivered or issued for delivery in the State.

(c) 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 Commissioner that authorizes

1 the carrier to engage in the business of health insurance or to act as a nonprofit health
2 service plan.

3 (d) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
4 SUBSECTION, A medical stop-loss insurer may not issue, RENEW, deliver, or offer a policy
5 or contract of medical stop-loss insurance, if the policy OR CONTRACT has:

6 [(1)] (I) a specific attachment point of less than [\$10,000] ~~\$40,000~~
7 \$22,500; or

8 [(2)] (II) an aggregate attachment point of less than [115%] ~~125%~~ 120%
9 of expected claims.

10 (2) THIS SUBSECTION DOES NOT APPLY TO:

11 (I) A POLICY OR CONTRACT OF MEDICAL STOP-LOSS
12 INSURANCE ISSUED OR DELIVERED BEFORE ~~JANUARY~~ JUNE 1, 2015, IF THE POLICY
13 OR CONTRACT MAINTAINS:

14 1. A SPECIFIC ATTACHMENT POINT OF NO LESS THAN
15 \$10,000; AND

16 2. AN AGGREGATE ATTACHMENT POINT OF NO LESS
17 THAN 115% OF EXPECTED CLAIMS; ~~OR~~

18 (II) A RENEWAL OF A POLICY OR CONTRACT DESCRIBED IN ITEM
19 (I) OF THIS PARAGRAPH; OR

20 (III) A POLICY OR CONTRACT OF MEDICAL STOP-LOSS
21 INSURANCE ISSUED OR DELIVERED ON OR AFTER JUNE 1, 2015, IF THE POLICY OR
22 CONTRACT:

23 1. IS ISSUED OR DELIVERED TO AN EMPLOYER THAT ON
24 MAY 31, 2015, HELD A POLICY OR CONTRACT OF MEDICAL STOP-LOSS INSURANCE
25 WITH:

26 A. A SPECIFIC ATTACHMENT POINT OF NOT LESS THAN
27 \$10,000; AND

28 B. AN AGGREGATE ATTACHMENT POINT OF NOT LESS
29 THAN 115% OF EXPECTED CLAIMS; AND

30 2. MAINTAINS:

1 **A. A SPECIFIC ATTACHMENT POINT OF NOT LESS THAN**
2 **\$10,000; AND**

3 **B. AN AGGREGATE ATTACHMENT POINT OF NOT LESS**
4 **THAN 115% OF EXPECTED CLAIMS.**

5 **(E) FOR A STOP-LOSS INSURANCE POLICY OR CONTRACT ISSUED TO A**
6 **SMALL EMPLOYER, A MEDICAL STOP-LOSS INSURER MAY NOT:**

7 ~~**(1) INCREASE COST SHARING OR DECREASE OR REMOVE STOP-LOSS**~~
8 ~~**COVERAGE FOR A SPECIFIC INDIVIDUAL WITHIN A SMALL EMPLOYER'S HEALTH**~~
9 ~~**BENEFIT PLAN; OR**~~

10 **(1) (I) IMPOSE HIGHER COST SHARING FOR A SPECIFIC**
11 **INDIVIDUAL WITHIN A SMALL EMPLOYER'S HEALTH BENEFIT PLAN THAN IS**
12 **REQUIRED FOR OTHER INDIVIDUALS WITHIN THE SMALL EMPLOYER'S HEALTH**
13 **BENEFIT PLAN; OR**

14 **(II) DECREASE OR REMOVE STOP-LOSS COVERAGE FOR A**
15 **SPECIFIC INDIVIDUAL WITHIN A SMALL EMPLOYER'S HEALTH BENEFIT PLAN; OR**

16 **(2) EXCLUDE ANY EMPLOYEE OR DEPENDENT FROM A POLICY OR**
17 **CONTRACT ON THE BASIS OF AN ACTUAL OR EXPECTED HEALTH STATUS-RELATED**
18 **FACTOR OR CONDITION, INCLUDING:**

19 **(I) PHYSICAL OR ~~MENTAL ILLNESS~~ BEHAVIORAL HEALTH,**
20 **INCLUDING MENTAL ILLNESS OR SUBSTANCE USE DISORDER;**

21 **(II) CLAIMS EXPERIENCE;**

22 **(III) MEDICAL HISTORY;**

23 **(IV) RECEIPT OF HEALTH CARE;**

24 **(V) GENETIC INFORMATION;**

25 **(VI) DISABILITY;**

26 **(VII) EVIDENCE OF INSURABILITY, INCLUDING CONDITIONS**
27 **ARISING OUT OF ACTS OF DOMESTIC VIOLENCE AGAINST AN EMPLOYEE OR**
28 **DEPENDENT; OR**

29 **(VIII) ANY OTHER HEALTH STATUS-RELATED FACTOR AS**
30 **DETERMINED BY THE COMMISSIONER.**

1 (F) FOR A STOP-LOSS INSURANCE POLICY OR CONTRACT ISSUED TO A
2 SMALL EMPLOYER, A MEDICAL STOP-LOSS INSURER SHALL:

3 (1) GUARANTEE RATES FOR AT LEAST 12 MONTHS, WITHOUT
4 ADJUSTMENT, UNLESS THERE IS A CHANGE IN:

5 (I) THE BENEFITS PROVIDED UNDER THE SMALL EMPLOYER'S
6 HEALTH BENEFIT PLAN DURING THE POLICY OR CONTRACT PERIOD;

7 (II) THE OWNERSHIP AND CONTROL OF THE SMALL EMPLOYER;
8 OR

9 (III) THE NUMBER OF COVERED LIVES BY A SIGNIFICANT
10 PERCENTAGE RESULTING FROM AN EVENT SUCH AS AN ACQUISITION OR A
11 DIVESTITURE;

12 (2) PAY STOP-LOSS CLAIMS INCURRED DURING THE POLICY OR
13 CONTRACT PERIOD AND SUBMITTED WITHIN 12 MONTHS AFTER THE EXPIRATION
14 DATE OF THE POLICY OR CONTRACT; AND

15 (3) DISCLOSE TO THE SMALL EMPLOYER, IN A FORM AND MANNER
16 APPROVED BY THE COMMISSIONER AND BEFORE ENTERING INTO A POLICY OR
17 CONTRACT FOR MEDICAL STOP-LOSS INSURANCE:

18 (I) THE TOTAL COSTS OF THE POLICY OR CONTRACT;

19 (II) 1. THE DATES ON WHICH THE POLICY OR CONTRACT
20 TAKES EFFECT AND TERMINATES; AND

21 2. PROVISIONS FOR RENEWING THE POLICY OR
22 CONTRACT;

23 (III) THE AGGREGATE ATTACHMENT POINT AND THE SPECIFIC
24 ATTACHMENT POINT FOR THE POLICY OR CONTRACT; AND

25 (IV) ANY LIMITATIONS ON COVERAGE.

26 [(e)] (G) A medical stop-loss insurer who offers or issues a medical stop-loss
27 insurance policy OR CONTRACT that does not meet the requirements of this section shall
28 be subject to the sanctions set forth in § 4-113 of this article for authorized insurers and §
29 4-212 of this article for unauthorized insurers.

30 (H) ~~ON OR BEFORE APRIL 1 OF EACH YEAR, A MEDICAL STOP-LOSS INSURER~~
31 ~~SHALL FILE WITH THE COMMISSIONER, IN A FORM AND MANNER APPROVED BY THE~~

1 ~~COMMISSIONER, AN ACTUARIAL CERTIFICATION THAT THE INSURER IS IN~~
 2 ~~COMPLIANCE WITH THE MINIMUM ATTACHMENT POINTS SPECIFIED IN THIS~~
 3 ~~SECTION.~~

4 ~~(9)(i)~~ Nothing in this section shall be construed as:

5 (1) imposing any requirement or duty on any person other than a carrier;
 6 or

7 (2) treating any medical stop-loss insurance policy as a policy of individual,
 8 group, or blanket health insurance covering the participants in the underlying health
 9 benefit plan.

10 SECTION 2. AND BE IT FURTHER ENACTED, That:

11 (a) The Maryland Insurance Administration shall conduct a study of the use of
 12 medical stop-loss insurance in self-funded employer health plans.

13 (b) As part of the study, the Administration shall:

14 (1) solicit information from stakeholders; and

15 (2) hold informational hearings, as appropriate.

16 (c) The stakeholders from whom the Administration shall solicit information
 17 shall include:

18 (1) carriers offering fully insured health plans in the State;

19 (2) carriers offering medical stop-loss insurance in the State;

20 (3) employers utilizing fully insured health plans;

21 (4) employers utilizing self-funded health plans in conjunction with
 22 medical stop-loss insurance;

23 (5) insurance producers;

24 (6) third party administrators;

25 (7) consumers;

26 (8) the Office of the Attorney General;

27 (9) Maryland counties and municipalities; and

28 (10) the Maryland Bankers Association.

1 (d) The study shall include:

2 (1) an analysis of baseline data, including sample data, where appropriate,
3 on:

4 (i) the types and costs of health benefit plans, including self-insured
5 plans, offered in the State by employers with 2 to 50 employees and employers with 51 to
6 100 employees;

7 (ii) for self-insured plans, the individual and aggregate attachment
8 points of medical stop-loss insurance purchased; and

9 (iii) the number of plan designs and carriers available in the small
10 employer market, including market share by carrier, and the number of plan designs and
11 carriers available in the market for health benefit plans utilizing medical stop-loss
12 insurance, including market share by medical stop-loss carrier;

13 (2) an overview of the employer health plan market in contiguous states,
14 including the percentage of fully insured employer health plans and self-insured employer
15 health plans utilizing medical stop-loss insurance;

16 (3) an estimate of the number of employers with 51 to 100 employees whose
17 health benefits plans would change from the large group to the small group market in 2016,
18 as a result of the change in the size of the small group market required by the federal
19 Affordable Care Act;

20 (4) an analysis of statutory and regulatory requirements for medical
21 stop-loss insurance in other states and the experience of states the requirements of which
22 are different from those in Maryland;

23 (5) a review of any guidance, recommendations, or model legislation
24 regarding medical stop-loss insurance by the National Association of Insurance
25 Commissioners or other groups;

26 (6) identification of any incentives and disincentives beginning in 2016,
27 associated with the purchase of health insurance in the small group market compared to
28 self-insurance with the purchase of medical stop-loss insurance, for both employers with
29 2 to 50 employees and employers with 51 to 100 employees;

30 (7) a comparison of the risk profile of small employers that self-insure and
31 the risk profile of small employers that purchase health insurance in the small group
32 market;

33 (8) an assessment of the impact on the stability and viability of the small
34 group market, including the possibility of adverse selection and higher premiums, resulting
35 from employers;

1 (i) choosing to self-insure instead of purchasing health insurance in
2 the small group market; and

3 (ii) after self-insuring, switching to the small group market;

4 (9) an assessment of any impact on the Maryland Health Benefit Exchange
5 of small employers choosing to drop coverage for their employees;

6 (10) an assessment of different attachment points for medical stop-loss
7 insurance, the effect that medical inflation could have on the attachment points in statute,
8 and the desirability of maintaining or adjusting the current statutory levels;

9 (11) an assessment of the consumer protections in medical stop-loss
10 insurance policies and contracts and the desirability of maintaining or adjusting the
11 current statutory consumer protections; and

12 (12) an assessment of the impact on local governments and small employers
13 of any changes to the attachment points or consumer protections in medical stop-loss
14 insurance policies and contracts.

15 (e) (1) On or before December 1, 2015, the Administration shall submit an
16 interim report of its findings and recommendations to the Governor and, in accordance with
17 § 2-1246 of the State Government Article, the Senate Finance Committee and the House
18 Health and Government Operations Committee.

19 (2) On or before October 1, 2016, the Administration shall submit a final
20 report of its findings and recommendations to the Governor and, in accordance with §
21 2-1246 of the State Government Article, the Senate Finance Committee and the House
22 Health and Government Operations Committee.

23 SECTION ~~3~~ 3. AND BE IT FURTHER ENACTED, That this Act shall apply to all
24 medical stop-loss insurance policies and contracts issued, delivered, or renewed in the
25 State on or after June 1, 2015.

26 SECTION ~~4~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 June 1, 2015. It shall remain effective for a period of 3 years and 1 month and, at the end
28 of June 30, 2018, with no further action required by the General Assembly, this Act shall
29 be abrogated and of no further force and effect.