

## STOP LOSS INSURANCE MODEL ACT

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### Section 1. Purpose and Intent

This law shall be known as the Stop Loss Insurance Act. The purpose of this Act is to establish criteria for the issuance of stop loss insurance policies. Nothing in this act shall be construed as imposing any requirement or duty on any person other than an insurer or as treating any stop-loss policy as a direct policy of health insurance.

### Section 2. Definitions

- A. “Actuarial certification” means a written statement by a member of the American Academy of Actuaries, or other individual acceptable to the commissioner, that an insurer is in compliance with the provisions of this Act, based upon the individual’s examination and including a review of the appropriate records and the actuarial assumptions and methods used by the insurer in establishing attachment points and other applicable determinations in conjunction with the provision of stop loss insurance coverage.
- B. “Attachment point” means the claims amount incurred by an insured group beyond which the insurer incurs a liability for payment.
- C. “Expected claims” means the amount of claims that, in the absence of a stop loss policy or other insurance, are projected to be incurred by an insured group through its health plan.

**Drafting Note:** This model act establishes criteria for the issuance of stop loss insurance policies. The criteria apply regardless of how the stop loss insurance carrier calculates when the aggregate attachment point has been met for the purposes of triggering payment under the policy. The model act only requires an insurer to calculate the numerical value of the aggregate attachment point pursuant to the definitions and parameters of the model; it does not preclude a stop loss carrier from using different contractual definitions of “expected claims” and other terms in order to determine how that numerical value is to be reached under the terms of its contract with the insured group.

### Section 3. Stop Loss Insurance Coverage Standards

- A. (1) An insurer shall not issue a stop loss insurance policy that :
  - (a) Has an annual attachment point for claims incurred per individual which is lower than \$20,000;
  - (b) Has an annual aggregate attachment point, for groups of fifty (50) or fewer, that is lower than the greater of:
    - (i) \$4,000 times the number of group members;
    - (ii) 120 percent of expected claims; or

- (iii) \$20,000;
  - (c) Has an annual aggregate attachment point for groups of fifty-one (51) or more that is lower than 110 percent of expected claims; or
  - (d) Provides direct coverage of health care expenses of an individual.
- (2) An insurer shall determine the number of persons in a group, for the purposes of this subsection, on a consistent basis, at least annually.
  - (3) For the purposes of determining the dollar amounts set forth in Paragraph (1) above, and upon consideration of the medical components of the Consumer Price Index (CPI), the commissioner may amend these dollar amounts and shall publish any change in these dollar amounts at least six (6) months prior to their effective dates.

**Drafting Note:** States may wish to provide the commissioner with the authority to promulgate regulations relating to the establishment of the attachment points set forth in Paragraph (1) above. A state may wish to adjust the dollar amounts specified in Paragraph (1) to appropriately reflect medical costs in the particular state. Detailed discussions, including a statement of legislative intent, discussions concerning the actuarial assumptions underlying this model, and an actuarial study on issues relating to risk transference to stop loss insurance carriers, can be found in the minutes of the NAIC State and Federal Health Insurance Legislative Policy Task Force, and its ERISA Working Group in 1994 and 1995.

- B. The commissioner may adopt rules that carry out the requirements of this act and prescribe additional standards for stop loss insurance policies.

#### **Section 4. Actuarial Certification**

An insurer shall file with the commissioner annually on or before March 15, an actuarial certification certifying that the insurer is in compliance with this Act. The certification shall be in a form and manner, and shall contain information, specified by the commissioner. A copy of the certification shall be retained by the insurer at its principal place of business.

#### **Section 5. Effective Date**

This Act shall become effective with respect to stop loss insurance policies issued or renewed six (6) months after [insert effective date].

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*Chronological Summary of Action (all references are to the Proceedings of the NAIC).*

*1995 Proc. 2<sup>nd</sup> Quarter 2, 38, 553, 663, 671-672 (adopted).*

*1999 Proc 3<sup>rd</sup> Quarter 25, 26, 834, 838, 839-840 (amended and reprinted).*