INSURANCE CODE - INS

DIVISION 2. CLASSES OF INSURANCE [1880 - 12880.8] *(Division 2 enacted by Stats. 1935, Ch. 145.)*

PART 2. LIFE AND DISABILITY INSURANCE [10110 - 11549] *(Part 2 enacted by Stats. 1935, Ch. 145.)*

CHAPTER 8. Small Employer Health Insurance [10700 - 10752.8] *(Heading of Chapter 8 renumbered from Chapter 14 (as added by Stats. 1992, Ch. 1128) by Stats. 1993, Ch. 113, Sec. 6.)*

ARTICLE 5. Stop-Loss Insurance [10752 - 10752.8] *(Article 5 added by Stats. 2013, Ch. 443, Sec. 1.)*

10752. As used in this article, the following definitions shall apply:

(a) “Attachment point” means the amount of health claims incurred by a small employer in a policy year for its employees and their dependents, and covered by a stop-loss insurance policy, above which the stop-loss insurer incurs a liability for payment.

(1) “Individual attachment point” means the amount of health claims incurred by a small employer in a policy year for an individual employee or dependent of an employee, and covered by a stop-loss insurance policy, above which the stop-loss insurer incurs a liability for payment, under individual stop-loss coverage. For purposes of this article, “specific attachment point” has the same meaning as “individual attachment point.”

(2) “Aggregate attachment point” means the total amount of health claims incurred by a small employer in a policy year for all covered employees and their dependents, and covered by a stop-loss insurance policy, above which the stop-loss insurer incurs a liability for payment under aggregate stop-loss coverage.

(b) “Dependent” means the spouse, registered domestic partner as described in Section 297 of the Family Code, or child of an employee.

(c) “Direct coverage” means that an insurance company assumes a direct obligation to an employee under an insurance policy to pay or indemnify the employee for health claims incurred by the employee or the employee’s dependents.

(d) “Expected claims” means, for the purposes of aggregate stop-loss coverage, the total amount of health claims that is projected to be incurred by a small employer for its employees and their dependents in a policy year.

(e) “Policy year” means the 12-month period that is designated as the policy year or policy period for the stop-loss insurance policy. If the stop-loss insurance policy does not designate a policy year, the policy year is the year in which the total amount of health claims incurred by a small employer for an individual employee or dependent of an employee, or the aggregate amount for all covered employees and their dependents, are added together for the purposes of determining whether the claims have exceeded the attachment point.

(f) “Small employer” has the same meaning as defined in subdivision (q) of Section 10753.

(g) “Stop-loss insurer” means an insurance company providing individual or aggregate stop-loss insurance coverage, or both, or any other assumption of risk, to a small employer for the health claims it incurs for its employees and their dependents.

(h) “Stop-loss insurance policy” means a policy, contract, certificate, or statement of coverage between a stop-loss insurer and small employer providing individual or aggregate stop-loss insurance coverage, or both, or any other assumption of risk, to a small employer for the liability the small employer incurs related to the covered health claims of its employees and their dependents.

(Added by Stats. 2013, Ch. 443, Sec. 1. (SB 161) Effective January 1, 2014.)

10752.1. A stop-loss insurer shall not exclude any employee or dependent on the basis of an actual or expected health status-related factor. Health status-related factors include, but are not limited to, any of the following: health status; medical condition, including both physical and mental illnesses; claims experience; medical history; receipt of health care; genetic information; disability; evidence of insurability, including conditions arising out of acts of domestic violence of the employee or dependent; or any other health status-related factor as determined by the department.

(Added by Stats. 2013, Ch. 443, Sec. 1. (SB 161) Effective January 1, 2014.)

10752.2. A stop-loss insurer shall renew, at the option of the small employer, all stop-loss insurance policies written, issued, administered, or renewed on or after January 1, 2014, and all small employer stop-loss insurance policies in force on or after January 1, 2014, except as follows:

(a) (1) For nonpayment of the required premiums by the small employer, if the small employer has been duly notified and billed for the charge and at least a 30-day grace period has elapsed since the date of notification.

(2) A stop-loss insurer shall continue to provide coverage as required by the small employer's policy during the grace period described in paragraph (1). Nothing in this section shall be construed to affect or impair the small employer's or the stop-loss insurer's other rights and responsibilities pursuant to the policy.

(b) Where the stop-loss insurer demonstrates fraud or an intentional misrepresentation of material fact by the small employer under the terms of the stop-loss insurance policy.

(c) Where the stop-loss insurer has been determined by the commissioner to be financially impaired.

(d) Where the stop-loss insurer ceases to write, issue, or administer new stop-loss insurance policies in this state; provided, however, that the following conditions are satisfied:

(1) Notice of the decision to cease writing, issuing, or administering new or existing stop-loss insurance policies in this state is provided to the commissioner, and to the small employer, at least 180 days prior to the discontinuation of the coverage.

(2) Stop-loss insurance policies subject to this article shall not be canceled until 180 days after the date of the notice required under paragraph (1). During that time, the stop-loss insurer shall continue to comply with this article.

(Added by Stats. 2013, Ch. 443, Sec. 1. (SB 161) Effective January 1, 2014.)

10752.3. A stop-loss insurance policy issued, reissued, or renewed on or after January 1, 2014, and prior to January 1, 2016, to a small employer shall not contain any of the following provisions:

(a) An individual attachment point for a policy year that is less than thirty-five thousand dollars ($35,000).

(b) An aggregate attachment point for a policy year that is less than the greater of one of the following:

(1) Five thousand dollars ($5,000) times the total number of group members.

(2) One hundred twenty percent of expected claims.

(3) Thirty-five thousand dollars ($35,000).

(c) A provision for direct coverage of an employee or dependent of an employee.

(Added by Stats. 2013, Ch. 443, Sec. 1. (SB 161) Effective January 1, 2014.)

10752.4. A stop-loss insurance policy issued, reissued, or renewed on or after January 1, 2016, to a small employer shall not contain any of the following provisions:

(a) An individual attachment point for a policy year that is less than forty thousand dollars ($40,000).

(b) An aggregate attachment point for a policy year that is less than the greater of one of the following:

(1) Five thousand dollars ($5,000) times the total number of group members.

(2) One hundred twenty percent of expected claims.

(3) Forty thousand dollars ($40,000).

(c) A provision for direct coverage of an employee or dependent of an employee.

(Added by Stats. 2013, Ch. 443, Sec. 1. (SB 161) Effective January 1, 2014.)

10752.43. Sections 10752.3 and 10752.4 do not apply to a stop-loss insurance policy provided to a small employer that was in effect prior to September 1, 2013. A stop-loss insurance policy that was in effect prior to September 1, 2013, may be renewed or reissued, or a stop-loss insurance policy may be issued by another stop-loss insurer to maintain continuity of stop-loss coverage for a small employer who had a stop-loss insurance policy in effect prior to September 1, 2013, provided that a stop-loss policy issued to maintain continuity of coverage shall have attachment points that are the same as or higher than the attachment points that were in place in the policy held by the small employer prior to September 1, 2013.

(Added by Stats. 2013, Ch. 443, Sec. 1. (SB 161) Effective January 1, 2014.)

10752.46. On April 1, 2014, and on April 1 annually thereafter, a stop-loss insurer shall report to the Department of Insurance the number of small employer stop-loss policies it had issued and in effect as of December 31 of the previous year. The information shall include new policies issued and policies reissued or renewed in the previous year for groups that have 1 to 50 employees and 51 to 100 employees.

(Added by Stats. 2013, Ch. 443, Sec. 1. (SB 161) Effective January 1, 2014.)

10752.5. The commissioner may adopt regulations as may be necessary to carry out the purposes of this article. In adopting regulations, the commissioner shall comply with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(Added by Stats. 2013, Ch. 443, Sec. 1. (SB 161) Effective January 1, 2014.)

10752.6. A stop-loss insurer that violates the provisions of this article is subject to the remedies and administrative penalties applicable to insurers in Sections 10718 and 10718.5.

(Added by Stats. 2013, Ch. 443, Sec. 1. (SB 161) Effective January 1, 2014.)

10752.7. Nothing in this article shall affect the ongoing operations of multiple employer welfare arrangements regulated pursuant to Article 4.7 (commencing with Section 742.20) of Chapter 1 of Part 2 of Division 1 that provide health care benefits to their members on a self-funded or partially self-funded basis and that comply with small group health reforms.

(Added by Stats. 2013, Ch. 443, Sec. 1. (SB 161) Effective January 1, 2014.)

10752.8. The provisions of this article are severable. If any provision of this article or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(Added by Stats. 2013, Ch. 443, Sec. 1. (SB 161) Effective January 1, 2014.)