

## CHAPTER 339

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**INSURANCE**

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**HOUSE BILL 13-1290**

BY REPRESENTATIVE(S) McCann, Fields, Fischer, Ginal, Hullinghorst, Labuda, Lebsack, Schafer, Tyler, Young;  
also SENATOR(S) Aguilar, Giron, Guzman, Jones, Kefalas.

**AN ACT**

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

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

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

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

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

- (A) TEN OR FEWER;
- (B) ELEVEN TO TWENTY-FIVE;
- (C) TWENTY-SIX TO FIFTY; AND
- (D) FIFTY-ONE TO ONE HUNDRED;

(II) THE NUMBER OF LIVES COVERED IN COLORADO FOR EACH GROUP SIZE SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a);

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(III) THE MEAN AND MEDIAN ATTACHMENT POINTS BY THE GROUP SIZES SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a);

(IV) THE SOURCE OF PRIOR COVERAGE FOR THE GROUPS SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), INCLUDING:

(A) EMPLOYERS PREVIOUSLY SELF-INSURED WITH EXCESS LOSS OR STOP-LOSS HEALTH INSURANCE COVERAGE;

(B) EMPLOYERS PREVIOUSLY SELF-INSURED WITHOUT EXCESS LOSS OR STOP-LOSS HEALTH INSURANCE COVERAGE;

(C) EMPLOYERS PREVIOUSLY NOT OFFERING COVERAGE;

(D) GROUPS PREVIOUSLY FULLY INSURED OUTSIDE THE COLORADO HEALTH BENEFIT EXCHANGE, CREATED IN ARTICLE 22 OF THIS TITLE; AND

(E) GROUPS PREVIOUSLY FULLY INSURED INSIDE THE COLORADO HEALTH BENEFIT EXCHANGE, CREATED IN ARTICLE 22 OF THIS TITLE; AND

(V) THE SMALLEST GROUP SIZE COVERED AND INSURER MINIMUM GROUP SIZE REQUIREMENTS.

(b) THE COMMISSIONER SHALL COLLECT THE INFORMATION IDENTIFIED IN THIS SUBSECTION (3) ANNUALLY FOR EACH CALENDAR YEAR FROM 2013 THROUGH 2018 AND MAKE THE DATA AVAILABLE TO THE PUBLIC.

(c) IF AN INSURER THAT ISSUES ONE OR MORE STOP-LOSS HEALTH INSURANCE POLICIES DOES NOT ANNUALLY FILE THE INFORMATION REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (3) BY THE DATE SPECIFIED BY RULES OF THE COMMISSIONER, THE COMMISSIONER MAY ASSESS A PENALTY OF UP TO ONE HUNDRED DOLLARS PER DAY FOR EACH DAY AFTER THE DATE THE INFORMATION IS DUE THAT THE INSURER FAILS TO SUBMIT THE REQUIRED INFORMATION.

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

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

**10-16-119.5. Stop-loss health insurance for small employers of not more than fifty employees - requirements - definitions - rules.** (1) NOTWITHSTANDING SECTION 10-16-119, THE PURPOSE OF THIS SECTION IS TO ESTABLISH CRITERIA FOR THE ISSUANCE OF STOP-LOSS HEALTH INSURANCE POLICIES TO ANY PERSON, FIRM, CORPORATION, PARTNERSHIP, OR ASSOCIATION ACTIVELY ENGAGED IN BUSINESS THAT EMPLOYED AN AVERAGE OF AT LEAST ONE BUT NOT MORE THAN FIFTY ELIGIBLE EMPLOYEES ON BUSINESS DAYS DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR. THIS SECTION DOES NOT IMPOSE ANY REQUIREMENT OR DUTY ON ANY PERSON OTHER THAN AN INSURER OFFERING STOP-LOSS HEALTH INSURANCE POLICIES TO ANY PERSON, FIRM, CORPORATION, PARTNERSHIP, OR ASSOCIATION ACTIVELY ENGAGED IN BUSINESS THAT EMPLOYED AN AVERAGE OF AT LEAST ONE BUT NOT MORE THAN FIFTY ELIGIBLE EMPLOYEES ON BUSINESS DAYS DURING THE IMMEDIATELY

PRECEDING CALENDAR YEAR OR TREAT ANY STOP-LOSS HEALTH INSURANCE POLICY AS A DIRECT POLICY OF HEALTH INSURANCE.

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

(a) HAS AN ANNUAL ATTACHMENT POINT FOR CLAIMS INCURRED PER INDIVIDUAL THAT IS LOWER THAN TWENTY THOUSAND DOLLARS;

(b) HAS AN ANNUAL AGGREGATE ATTACHMENT POINT LOWER THAN THE GREATER OF:

(I) ONE HUNDRED TWENTY PERCENT OF EXPECTED CLAIMS; OR

(II) TWENTY THOUSAND DOLLARS;

(c) PROVIDES DIRECT COVERAGE OF HEALTH CARE EXPENSES OF AN INDIVIDUAL;

(d) VARIES BY INDIVIDUAL WITHIN THE GROUP THE ANNUAL ATTACHMENT POINT FOR CLAIMS INCURRED PER INDIVIDUAL; OR

(e) EXCLUDES ANY EMPLOYEE OR ELIGIBLE DEPENDENT FROM THE STOP-LOSS HEALTH INSURANCE COVERAGE.

(3) THE COMMISSIONER MAY, BY RULE, CHANGE THE DOLLAR AMOUNTS IN SUBSECTION (2) OF THIS SECTION BASED UPON CHANGES IN THE MEDICAL COMPONENTS OF THE CONSUMER PRICE INDEX FOR THE DENVER-BOULDER-GREELEY METROPOLITAN STATISTICAL AREA. ANY CHANGE IN THESE DOLLAR AMOUNTS MUST BE MADE AT LEAST SIX MONTHS PRIOR TO THE EFFECTIVE DATE OF THE CHANGE.

(4) AN INSURER THAT ISSUES ONE OR MORE STOP-LOSS HEALTH INSURANCE POLICIES TO ANY PERSON, FIRM, CORPORATION, PARTNERSHIP, OR ASSOCIATION ACTIVELY ENGAGED IN BUSINESS THAT EMPLOYED AN AVERAGE OF AT LEAST ONE BUT NOT MORE THAN FIFTY ELIGIBLE EMPLOYEES ON BUSINESS DAYS DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR SHALL FILE WITH THE COMMISSIONER ANNUALLY AN ACTUARIAL CERTIFICATION CERTIFYING THAT THE INSURER IS IN COMPLIANCE WITH THIS SECTION. THE CERTIFICATION MUST BE IN A FORM AND MANNER AND CONTAIN INFORMATION AS REQUIRED BY THE COMMISSIONER.

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

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

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

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

(d) ANY LIMITATIONS ON COVERAGE;

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

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

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

(II) MAXIMUM CLAIMS LIABILITY TO THE EMPLOYER.

(6) AS USED IN THIS SECTION:

(a) "ACTUARIAL CERTIFICATION" MEANS A WRITTEN STATEMENT BY A MEMBER OF THE AMERICAN ACADEMY OF ACTUARIES, OR BY ANOTHER INDIVIDUAL ACCEPTABLE TO THE COMMISSIONER, THAT AN INSURER IS IN COMPLIANCE WITH THIS SECTION, 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 HEALTH 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 HEALTH INSURANCE POLICY OR OTHER INSURANCE, ARE PROJECTED TO BE INCURRED BY AN INSURED GROUP THROUGH ITS HEALTH PLAN.

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

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

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

Approved: May 28, 2013