

SENATE BILL 703

C3

5lr2528
CF HB 552

By: **Senator Middleton**

Introduced and read first time: February 6, 2015

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: April 3, 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)~~ PARAGRAPHS (2)
4 AND (3) OF THIS SUBSECTION, A medical stop-loss insurer may not issue, RENEW,
5 deliver, or offer a policy or contract of medical stop-loss insurance, if the policy OR
6 CONTRACT has:

7 [(1)] (I) a specific attachment point of less than [\$10,000] ~~\$40,000~~
8 \$22,500; or

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

11 (2) THIS SUBSECTION DOES NOT APPLY TO:

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

15 1. A SPECIFIC ATTACHMENT POINT OF NO LESS THAN
16 \$10,000; AND

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

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

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

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

27 A. A SPECIFIC ATTACHMENT POINT OF NOT LESS THAN
28 \$10,000; AND

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

31 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 (3) A POLICY OR CONTRACT OF MEDICAL STOP-LOSS INSURANCE
 6 ISSUED OR DELIVERED TO A COUNTY OR A MUNICIPALITY THROUGH THE MARYLAND
 7 LOCAL GOVERNMENT HEALTH COOPERATIVE SHALL HAVE AN AGGREGATE
 8 ATTACHMENT POINT OF:

9 (I) BEFORE JULY 1, 2017, NOT LESS THAN 115% OF EXPECTED
 10 CLAIMS; AND

11 (II) BEGINNING JULY 1, 2017, NOT LESS THAN 120% OF
 12 EXPECTED CLAIMS.

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

15 ~~(1) INCREASE COST SHARING OR DECREASE OR REMOVE STOP-LOSS~~
 16 ~~COVERAGE FOR A SPECIFIC INDIVIDUAL WITHIN A SMALL EMPLOYER'S HEALTH~~
 17 ~~BENEFIT PLAN; OR~~

18 (1) (I) IMPOSE HIGHER COST SHARING FOR A SPECIFIC
 19 INDIVIDUAL WITHIN A SMALL EMPLOYER'S HEALTH BENEFIT PLAN THAN IS
 20 REQUIRED FOR OTHER INDIVIDUALS WITHIN THE SMALL EMPLOYER'S HEALTH
 21 BENEFIT PLAN; OR

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

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

27 (I) PHYSICAL OR ~~MENTAL ILLNESS~~ BEHAVIORAL HEALTH,
 28 INCLUDING MENTAL ILLNESS OR SUBSTANCE USE DISORDER;

29 (II) CLAIMS EXPERIENCE;

30 (III) MEDICAL HISTORY;

31 (IV) RECEIPT OF HEALTH CARE;

1 (V) GENETIC INFORMATION;

2 (VI) DISABILITY;

3 (VII) EVIDENCE OF INSURABILITY, INCLUDING CONDITIONS
4 ARISING OUT OF ACTS OF DOMESTIC VIOLENCE AGAINST AN EMPLOYEE OR
5 DEPENDENT; OR

6 (VIII) ANY OTHER HEALTH STATUS-RELATED FACTOR AS
7 DETERMINED BY THE COMMISSIONER.

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

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

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

14 (II) THE OWNERSHIP AND CONTROL OF THE SMALL EMPLOYER;
15 OR

16 (III) THE NUMBER OF COVERED LIVES BY A SIGNIFICANT
17 PERCENTAGE RESULTING FROM AN EVENT SUCH AS AN ACQUISITION OR A
18 DIVESTITURE;

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

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

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

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

28 2. PROVISIONS FOR RENEWING THE POLICY OR
29 CONTRACT;

1 (III) THE AGGREGATE ATTACHMENT POINT AND THE SPECIFIC
2 ATTACHMENT POINT FOR THE POLICY OR CONTRACT; AND

3 (IV) ANY LIMITATIONS ON COVERAGE.

4 [(e)] (G) A medical stop-loss insurer who offers or issues a medical stop-loss
5 insurance policy OR CONTRACT that does not meet the requirements of this section shall
6 be subject to the sanctions set forth in § 4-113 of this article for authorized insurers and §
7 4-212 of this article for unauthorized insurers.

8 (H) ~~ON OR BEFORE APRIL 1 OF EACH YEAR, A MEDICAL STOP-LOSS INSURER~~
9 ~~SHALL FILE WITH THE COMMISSIONER, IN A FORM AND MANNER APPROVED BY THE~~
10 ~~COMMISSIONER, AN ACTUARIAL CERTIFICATION THAT THE INSURER IS IN~~
11 ~~COMPLIANCE WITH THE MINIMUM ATTACHMENT POINTS SPECIFIED IN THIS~~
12 ~~SECTION.~~

13 ~~[(f)] (I)~~ Nothing in this section shall be construed as:

14 (1) imposing any requirement or duty on any person other than a carrier;
15 or

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

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

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

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

23 (1) solicit information from stakeholders; and

24 (2) hold informational hearings, as appropriate.

25 (c) The stakeholders from whom the Administration shall solicit information
26 shall include:

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

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

29 (3) employers utilizing fully insured health plans;

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

3 (5) insurance producers;

4 (6) third party administrators;

5 (7) consumers;

6 (8) the Office of the Attorney General;

7 (9) Maryland counties and municipalities; ~~and~~

8 (10) the Maryland Bankers Association; and

9 (11) nonprofit faith-based organizations.

10 (d) The study shall include:

11 (1) an analysis of baseline data, including sample data, where appropriate,
12 on:

13 (i) the types and costs of health benefit plans, including self-insured
14 plans, offered in the State by employers with 2 to 50 employees and employers with 51 to
15 100 employees;

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

18 (iii) the number of plan designs and carriers available in the small
19 employer market, including market share by carrier, and the number of plan designs and
20 carriers available in the market for health benefit plans utilizing medical stop-loss
21 insurance, including market share by medical stop-loss carrier;

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

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

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

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

4 (6) identification of any incentives and disincentives beginning in 2016,
5 associated with the purchase of health insurance in the small group market compared to
6 self-insurance with the purchase of medical stop-loss insurance, for both employers with
7 2 to 50 employees and employers with 51 to 100 employees;

8 (7) a comparison of the risk profile of small employers that self-insure and
9 the risk profile of small employers that purchase health insurance in the small group
10 market;

11 (8) an assessment of the impact on the stability and viability of the small
12 group market, including the possibility of adverse selection and higher premiums, resulting
13 from employers:

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

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

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

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

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

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

28 (e) (1) On or before December 1, 2015, the Administration shall submit an
29 interim report of its findings and recommendations to the Governor and, in accordance with
30 § 2-1246 of the State Government Article, the Senate Finance Committee and the House
31 Health and Government Operations Committee.

32 (2) On or before October 1, 2016, the Administration shall submit a final
33 report of its findings and recommendations to the Governor and, in accordance with §
34 2-1246 of the State Government Article, the Senate Finance Committee and the House
35 Health and Government Operations Committee.

1 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall apply to all
2 medical stop-loss insurance policies and contracts issued, delivered, or renewed in the
3 State on or after June 1, 2015.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.