

2013 -- H 5459

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO INSURANCE

Introduced By: Representatives Finn, and Edwards

Date Introduced: February 14, 2013

Referred To: House Corporations

(Business Regulation)

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 27-4 of the General Laws entitled "Life Insurance Policies and
2 Reserves" is hereby amended by adding thereto the following section:

3 **27-4-30. Discretionary clauses. -- (a) No policy or certificate may contain a provision:**

4 (1) Purporting to reserve sole discretion to the insurance company to interpret the terms
5 of a policy or certificate; or

6 (2) Specifying a standard of review upon which a court may review denial of a claim or
7 any other decision made by an insurance company with respect to a policyholder or certificate
8 holder.

9 SECTION 2. Title 27 of the General Laws entitled "INSURANCE" is hereby amended
10 by adding thereto the following chapter:

11 CHAPTER 8.2

12 STOP-LOSS INSURANCE

13 **27-8.2-1. Purpose and intent. -- This chapter shall be known as the "Stop-Loss**
14 **Insurance Act."** The purpose of this chapter is to establish criteria for the issuance of stop-loss
15 insurance policies. Nothing in this chapter shall be construed as imposing any requirement or
16 duty on any person other than an insurer, or as treating any stop-loss policy as a direct policy of
17 health insurance.

18 **27-8.2-2. Definitions. -- (a) "Actuarial certification" means a written statement by a**
19 **member of the American Academy of Actuaries, or other individual acceptable to the**

1 commissioner, that an insurer is in compliance with the provisions of this chapter. The written
2 statement shall be based upon the individual's examination, and include a review of the
3 appropriate records and the actuarial assumptions and methods used by the insurer in establishing
4 attachment points and other applicable determinations in conjunction with the provision of stop-
5 loss insurance coverage.

6 (b) "Attachment point" means the claims amount incurred by an insured group beyond
7 which the insurer incurs a liability for payment.

8 (c)"Expected claims" means the amount of claims that, in the absence of a stop-loss
9 policy or other insurance, are projected to be incurred by an insured group through its health plan.

10 **27-8.2-3. Stop-loss insurance coverage standards. -- (a) An insurer shall not issue a**
11 **stop-loss insurance policy that:**

12 (1) Has an annual attachment point for claims incurred per individual that is lower than
13 sixty thousand dollars (\$60,000);

14 (2) Has an annual aggregate attachment point, for groups of fifty (50) or fewer, that is
15 lower than the greater of:

16 (i) Fifteen thousand dollars (\$15,000) times the number of group members;

17 (ii) One hundred thirty percent (130%) of expected claims; or

18 (iii) Twenty thousand dollars (\$20,000);

19 (3) Has an annual aggregate attachment point for groups of fifty-one (51) or more that is
20 lower than one hundred ten percent (110%) of expected claims; or

21 (4) Provides direct coverage of health care expenses of an individual.

22 (b) An insurer shall determine the number of persons in a group, for the purposes of this
23 subsection, on a consistent basis, at least annually.

24 (c) For the purposes of determining the dollar amounts set forth in subsection (a) above,
25 and upon consideration of the medical components of the Consumer Price Index (CPI), the
26 commissioner may amend these dollar amounts and shall publish any change in these dollar
27 amounts at least six (6) months prior to their effective dates.

28 (d) The commissioner may adopt rules that carry out the requirements of this chapter and
29 prescribe additional standards for stop-loss insurance policies.

30 **27-8.2-4. Actuarial certification. -- An insurer shall file with the commissioner annually**
31 **on or before March 15, an actuarial certification certifying that the insurer is in compliance with**
32 **this chapter. The certification shall be in a form and manner, and shall contain information,**
33 **specified by the commissioner. A copy of the certification shall be retained by the insurer at its**
34 **principal place of business.**

1 **27-8.2-5. Effective date.** -- This chapter shall become effective with respect to stop-loss
2 insurance policies issued or renewed on or after January 1, 2014.

3 SECTION 3. Chapter 27-18 of the General Laws entitled "Accident and Sickness
4 Insurance Policies" is hereby amended by adding thereto the following section:

5 **27-18-79. Discretionary clauses.** -- (a) No policy or certificate issued by a health care
6 entity may contain a provision:

7 (1) Purporting to reserve sole discretion to the insurance company to interpret the terms
8 of a policy or certificate; or

9 (2) Specifying a standard of review upon which a court may review denial of a claim or
10 any other decision made by an insurance company with respect to a policyholder or certificate
11 holder.

12 (b) For purposes of this section, "health care entity" means a health insurance company or
13 nonprofit hospital or medical or dental service corporation or plan or health maintenance
14 organization which operates or administers a health plan in this state.

15 SECTION 4. Chapter 27-34.2 of the General Laws entitled "Long-Term Care Insurance"
16 is hereby amended by adding thereto the following section:

17 **27-34.2-22. Discretionary clauses.** -- No policy or certificate may contain a provision:

18 (1) Purporting to reserve sole discretion to the insurance company to interpret the terms
19 of a policy or certificate; or

20 (2) Specifying a standard of review upon which a court may review denial of a claim or
21 any other decision made by an insurance company with respect to a policyholder or certificate
22 holder.

23 SECTION 5. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO INSURANCE

1 This act would impose standards on stop-loss insurance policies, which cap an
2 employer's exposure with regard to liability under health benefit plans issued to employees. This
3 act would prohibit discretionary clauses, which allow insurers to make unilateral coverage
4 decisions, in health, life and long-term care insurance policies.

5 This act would take effect upon passage.

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