STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243

NED McWHERTER
GOVERNOR

ALLAN S. CURTIS
COMMISSIONER

BULLETIN

TO: All Insurance Companies doing business in Tennessee

FROM: Allan S. Curtis, Commissioner of Commerce and Insurance ASC

RE: Regulation of Excess Stop-Loss Coverage

DATE: July 1, 1994

Tennessee Code Annotated Section 56-2-201(1) defines accident and health insurance as "providing aggregate or excess stop-loss coverage in connection with self-funded employee welfare benefit plans, health maintenance organizations, managed care organizations participating in the TennCare program, and long-term care facilities." In addition, Section 56-2-121 defines excess/stop-loss coverage for self-funded non-profit rural health corporations as insurance regulated by this code. If any of these entities require protection for the risk of excessive health care expense, the only available coverage within Tennessee statutes is direct excess stop-loss insurance, not reinsurance. The entities listed above are not defined as "insurers" for the purpose of reinsurance and in accordance with Tennessee Code Annotated Section 56-2-207 do not have risks and policy liabilities to reinsure and must purchase direct excess insurance. <u>Please note, excess/stop-loss coverage is subject to the premium tax</u>.

Tennessee Code Annotated Section 56-26-102 requires approval of all policies of accident and sickness prior to issuance or delivery in the state of Tennessee. It is contrary to state law for the Commissioner to approve accident and health policies for issuance by unauthorized carriers, therefore, excess stop-loss coverage may only be purchased through an insurance company holding a valid certificate of authority issued by this Department. This type of insurance is <u>not available</u> through a Surplus Lines insurer as defined in the Surplus Lines Insurance Act, Tennessee Code Annotated Section 56-14-101 et seq. due to health coverage being widely available through authorized carriers.

The Department will not approve an excess stop loss policy for an authorized carrier that is offering less than catastrophic coverage. The exception to the prohibition for catastrophic coverage is based upon Attorney General's Opinion Number 103 dated June 9, 1986 and the definition of "catastrophic loss" can be found in the Tennessee Code Annotated Section 56-40-101 (b). The definition of "catastrophic loss" is set forth in Tennessee Code Annotated Section 56-40-101 (b). The payment of claim threshold in the law is $25,000 per person and $150,000 for the entire plan for one (1) contract year. Any policy issued to cover less than this catastrophic threshold will be considered a group health policy and must meet all standards set forth in the code for such coverage.

As stated previously, Tennessee Code Annotated Section 56-26-102 requires that all aggregate or excess stop-loss policies be filed and approved prior to use in this State. Each filing will be reviewed as an individual policy and will require an actuarial memorandum and complete schedule of premium rates as required by Rule 0780-1-20. All excess stop-loss policies "filed" prior to January 1, 1994 must be submitted to the Department for review and approval.