



STATE OF TENNESSEE  
DEPARTMENT OF COMMERCE AND INSURANCE  
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NASHVILLE, TENNESSEE 37243

DON SUNDQUIST  
GOVERNOR

DOUGLAS M. SIZEMORE  
COMMISSIONER

B U L L E T I N

TO: All Insurance Companies Doing Business in  
Tennessee

FROM: Douglas M. Sizemore *DMS*  
Commissioner

RE: Excess Stop-Loss Coverage

DATE: October 18, 1995

This bulletin is written to clarify the Department's position regarding the offering of excess stop-loss coverage. This bulletin supersedes the bulletin dated July 1, 1994 on this subject issued by Commissioner Allan S. Curtis.

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 nonprofit rural health corporations as insurance regulated by this code. If any of these entities require protection for the risk of excessive health care expenses, 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. Excess/stop-loss coverage unlike reinsurance is subject to the premium tax.

Tennessee Code Annotated Section 56-26-102 requires approval of all policies covering 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

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Department. This type of insurance is not available 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 has reviewed its position regarding the offering of excess stop-loss coverage. It is presently the Department's position that it will not approve an excess stop-loss policy for an authorized carrier that is offering less than catastrophic coverage. Catastrophic coverage will be defined as coverage with individual specific attachment limits of at least \$10,000, and with an aggregate attachment point of 120% of expected claims for the entire plan for one 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 Tennessee Law 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 that are "filed" prior to January 1, 1994 must be submitted to the Department for review and approval.

DMS/SKR/pjh

Attachment

Bulletin.1