

OUTSIDE the Beltway

Written by Dave Kirby

Government Relations Committee Prepares Rebuttal to Washington State Stop-Loss Rules

WASHINGTON



A Washington state white paper from the Office of the Insurance Commissioner (OIC) outlining new objections to stop-loss policies covering sponsors of self-insured employee benefit plans arrived silently but with possibly deadly effect. As this issue goes to press, SIIA's Government Relations Committee is preparing a response to defend the state's self-insurers and the thousands of employees and dependents they cover.

"All of a sudden these new directives by the OIC just appeared without the opportunity for input or response by the industry" reports SIIA Director of State Government Relations **Adam Brackemyre**. The most egregious – from self-insurers' perspectives – is a rule that only one stop-loss attachment point can be set for the specific claims of any policy. The frightening implication is that a second, higher, attachment point may not be set for cases of known high risks. This eliminates an employer's ability to protect against high-risk, high-cost claims at a reasonable premium.

The traditional method to assure coverage for high-risk employees has long been known as lasering. In addition to prohibiting that practice, Washington's new rules demand uniform rate-setting manuals that allow for no flexibility or variable factors. In addition, the OIC may apply its new rules to all policies now in effect with the potential to void every stop-loss contract in the state.

"It's not overstating the fact to say these rules, if left standing, would cripple self-insurance among Washington employers,"

Brackemyre said. "The state's self-insured market is very large, comprised of a robust business community with a high proportion of technology companies, plus government entities and Taft Hartley plans."

As soon as the new Washington rules became known, SIIA's Government Relations Committee authorized a remediation campaign. Committee Chairman

Jerry Castelloe described the SIIA delegation to Olympia that is being formed and will include major self-insuring employers who, he said, "Are the most powerful constituents we can bring to bear in these situations."

Castelloe, principal of Castelloe Partners of Charlotte, North Carolina, is a veteran of state advocacy campaigns to protect self-insurance. Having been involved in successfully opposing harmful regulations in several states, he is generally optimistic about SIIA's chances.

"In Connecticut last year we took a delegation of SIIA members to a meeting with the insurance commissioner and they did a great job of presenting how well self-insurance and stop-loss policies work for the self-insured employers in the state," Castelloe said. The state subsequently revised its approach to a position that was acceptable to the industry.

Washington, he believes, is the latest in a lengthy line of states that have attempted to encroach on



self-insurance in this manner. "States continually look for ways to regulate self-insurance, even reduce its presence to support state healthcare exchanges under the ACA or to otherwise balance their budgets," Castelloe says.

In earlier decades, SIIA's primary government relations activities centered on federal issues in Washington. But now most challenges come from a growing number of states. "These are very complex and expensive issues for SIIA to defend against," Castelloe said.

"They can't make outright attacks on self-insurance because it is protected by the Federal ERISA law," he noted. "So they attack stop-loss insurance instead and often seize on the issue of lasering to weaken self-insured plans.

"Many regulators seem to think

that lasering is a bad thing, as if we would cut out the potential for high-risk claims from plans, but actually it's beneficial to employers to help them cover employee health risks in managing their overall benefits program. Lasering is a financing tool, not a risk transfer tool," he said.

"It's up to us to be educators on that point," Castelloe said. "We have helped state insurance regulators understand that lasering doesn't mean denying coverage, it's actually the opposite. We hope we can successfully make this point in Washington."

Castelloe noted that SIIA members who are located or do business in Washington were instrumental in alerting the organization about the challenging new regulations. "We have to rely on our members to maintain those communications and pursue advocacy opportunities. Our

grassroots efforts are always the most important part of government relations campaigns." ■

SIIA members who wish to join the state government relations advocacy team are invited to contact Adam Brackemyre at the Washington, DC, office, (202) 463-8161 or abrackemyre@siia.org.



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