



STOP- LOSS

PIT FALLS

*Mindful of
lasering and
renewal obstacles for self-
funded employers with
large ongoing claims,
innovative solutions
are paving the way
to peace of mind*

Proponents of self-insurance know the many advantages this funding mechanism has over fully insured options, but there could be hidden costs or coverage loopholes lurking in the fine print.

Consider, for example, that with many stop-loss insurers rating only for unknown future risks, some self-insured employers with large ongoing claims may find it impossible to afford annual renewals over the long haul.

Even self-insured employers that purchase a no-new-laser contract and renewal rate cap at usually 40% to 50% are vulnerable because many carriers will not renew that option the following year if costly claims quickly go south.

The issue is being closely observed by veteran benefits broker Keith McNeil, co-founder of Arrow Benefits Group, a UBA partner firm. "The mindset of the carrier is often short-term," he says, concerned about what happens to the cost of stop-loss insurance after the first few years.

By Bruce Shutan

McNeil suggests all carriers have more flexible contracts that provide their self-insured customers an extra level of protection, even if negotiated at a higher rate – as long as it's not onerous. Some do, he happily reports. Other solutions involve purchasing consortiums and group insurance captives that aggregate various arrangements into a single entity or small number of risk pools. The idea is for several employers to pool their stop-loss renewals at the same rate, but add a small laser to the highest users that won't break the bank.

Under lasering, higher stop-loss coverage attachment points are set for health plan members with costly claims experience or an expectation that they will become high-cost claimants. Employers may request lasering to reduce the fixed cost aspect of financing their medical benefit plan, explains Mike Kemp, head of accident and health for Swiss Re Corporate Solutions.

He describes it as “somewhat analogous to the decision to self-fund vs. purchasing a fully insured medical plan. The employer is able to make an informed decision as to the appropriate trade-off between taking on a variable risk vs. laying off that risk at a fixed price based on their unique financial and risk-taking capabilities.”

McNeil says there are many scenarios where it might work to their advantage. His objection is the “ability of a stop-loss carrier to impose lasers of any amount on a member; no matter how financially crippling that might be to the plan sponsor.” At issue is an ability to reasonably manage high-cost claimants who join a self-insured health plan later or the individual wasn't known to be a high risk when the contract took effect.

As self-funding becomes increasingly popular, “more employers are also seeing the downside” of this arrangement, notes Brad Kopcha, EVP of actuarial services and corporate development at Benecon. He cites the tradeoff between price and risk, noting that many times those that choose a lower fixed cost expose themselves to unforeseen risk.

His job is to make employers fully aware of any long-term catastrophic risks they may encounter. While he considers lasers a valuable risk-management tool, Kopcha raises the importance of being able to negotiate those terms.

While any concern over this common industry practice hasn't reached a fevered pitch, it could be bubbling to the surface for self-funded employers with ongoing multimillion dollar claims driven by costly specialty drugs to treat, say, hemophilia or other medical conditions.

Understanding the intent of lasering out costly risks to burnish profit-and-loss statements, McNeil cautions that the process lacks transparency or at least a willingness of some stop-loss carriers or captive managers to level with their customers. On top of that, he's concerned that there appears to be a dereliction of duty in essentially transferring risk back to employers without quantifying that risk to the client beforehand.



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There's also an implication that the employer has done something wrong when, in fact, McNeil says they're simply unlucky with regard to workforce demographics. The ultimate fear is that an inability to absorb ongoing catastrophic claims could put a self-funded company out of business.

Some large brokers are now asking that their stop-loss renewal quotes have no new lasers and a rate cap for the first renewal, he reports. "There's a growing realization that it's a problem, but because it's rare, it's not on most people's radar," according to McNeil.

At a recent conference he attended, for instance, McNeil was struck by several rationalizations industry leaders used to justify traditional stop-loss renewals allowing potentially unfettered lasers. One was that most employers won't reach their laser maximum, while another was given that specialty drugs are a driving factor. The thinking was that certain costly scripts can always be purchased outside the U.S. or removed from the formulary in pursuit of a patient assistance program designed to obtain the drug for free or at a very low cost.

While these and other options can provide help in some cases, they are not something that can be relied on in the most extreme cases, he believes. In a nutshell, he's just not sure why some carriers that profess to be in the insurance business are unwilling to rate for insurance protection that their clients will need in the worst-case scenario. If they are unwilling to do so, he suggests that they at least let the client know how they will handle a renewal in a worst-case scenario for exceeding years, not just the next renewal.

Theoretical discussions

To be fair, concern about lasering and costly stop-loss renewals involve claims that are very rare relative to other risks, and therefore, not top of mind for industry leaders. Kemp has heard discussions about these issues in a theoretical context, but never involving a practical application.

One brow-raising example that McNeil learned about through the proverbial grapevine involved an employee whose cancer symptoms were first diagnosed in mid-year. If the stem cell transplant estimated to cost between \$250,000 and \$1 million he eventually needed had been paid in year one of the policy when it was done, the spec would have been just \$60,000.

But because it wasn't settled until year two, the carrier excluded that individual on renewal (not even a specified laser), though he still was covered by the plan at the full risk of the plan sponsor. That meant the self-insured employer was able to find a \$250,000 laser somewhere else. Fellow brokers with whom he shared this story and have generally agreed in principle to reasonably priced lasers were surprised by this account.

The fundamental issue as Kemp sees it involves the potential impact to severe, ongoing situations and how a no-new-laser is handled at renewal. Acknowledging the advent of specialty drugs can heighten angst, especially as they become more widely used, Kemp also points out the potential for lifetime catastrophic costs has always been part of the equation.

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With regard to mitigating high rate increases at renewal, he has seen options in the market for as low as 30% or 35. "But I would also argue that even a 40% or 50% renewal of the stop-loss premium, in most cases, should not be viewed as financially catastrophic to an employer because the stop-loss premium itself typically represents about 20% or so of their total medical benefits spend," Kemp explains. Therefore, he says "it needs to be put into perspective" when considering the total benefits spend.

The actuarial vs. underwriting debate

Whether frustration over lasering contracts and stop-loss renewals involving ongoing catastrophic claims may or may not be mounting across the self-insurance community, some service providers are poised to assist.

Contribution Health, Inc., which offers self-funded employers stop-loss purchasing strategies among other specialty services, uses actuarial management, a spread-of-risk approach and purchasing power amassed over several years instead of lasers. It views high prices for no-laser guarantees as double payment for the same coverage.

"Isn't stop loss supposed to cover large claims without paying an extra 10% to guarantee they cover the large claim?" according to the company's marketing materials. "We think large claims should be spread across the pool at no extra cost."

No-laser contracts are confined to larger employers and accompanied by a rate increase of 8% to 10% and 50% rate cap on renewal, explains Rick Burd, president of Contribution Health.

"Stop-loss insurance companies are generally in the business of avoiding risk, not taking risk," he says, referencing an operating philosophy that each group has to be profitable each year. *"That's why they are full of underwriters as opposed to actuaries. Underwriters avoid risk; actuaries pride themselves in managing risk. Our programs are designed to pay a fair risk premium, but we have such trouble finding risk partners willing to take risk."*

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The lasering issue raises a larger philosophical issue about stop loss, according to Burd. “The interesting subtext to all this is the cultural clash of avoiding risk versus spreading risk,” he observes, noting how it influences pricing, renewals, contracts and claim adjudication.

There are others in the self-insurance community who have adopted his thinking and even used it as their *raison d'être*. “Our business is designed to solve this issue,” says Andrew Cavenagh, managing director and founder of Pareto Captive Services, LLC. As part of the company’s model, employers cannot get a laser for a new condition that appears after they join one of Pareto’s programs. Also, the largest stop-loss premium increase Pareto has ever given is 30%.

By adopting this approach with lasering, Cavenagh says self-insurance is made palatable for employers with between 50 and 400 employees. “Once we’ve created

increased consolidation in stop-loss carriers and fewer choices for employers.”

Benecon has offered a program for nearly five years that mitigates lasers and other pitfalls associated with placing stop loss on an annual basis for self-insured employers. The effort includes 15 consortiums with \$1 billion of premium equivalent flowing annually through 843 self-funded accounts and more than 90% retention.

The largest program, called VERIS, serves about 300 private employers with stop-loss consulting services to ensure they’re entering into a stop-loss arrangement with adequate protection against high-dollar claims. Kopcha says it smoothes out any increases without the need for lasers. VERIS is posting double-digit growth, which he attributes to a combination of “expertise and volume in this space,” as well as cooperation with stop-loss carriers.

Despite the solutions at hand to make stop-loss coverage more affordable for groups with unusually high risks, scores of self-insured employers may not even be aware of them. McNeil references a scene in the film “Big Jake” starring John Wayne during which a sheepherder is about to be hanged by cattle ranchers. To save his life from the ranchers, Big Jake asks if he’s willing to sell his sheep to him. When Big Jake offers a certain price, the sheepherder calls it highway robbery, but then is asked if he thinks he’s going to get a better offer that day.

“Our clients with large catastrophic ongoing claims are the sheepherder with a noose around the neck, and if they have not planned ahead and selected the right stop-loss vendor, then they may end up in the same position,” he quips. ■

Bruce Shutan is a Los Angeles freelance writer who has closely covered the employee benefits industry for 30 years.

that financial safe zone, we help them reduce the cost of health care,” he adds.

Any effort to remove lasers from the industry would likely have to happen on a state-by-state basis given that regulatory structure, Cavenagh points out. “I think the big stop-loss carriers would love it, as they could assume the volatility more easily than smaller stop-loss carriers, giving them a competitive advantage,” he observes. “It would probably lead to