RULE

Department of Insurance
Office of the Commissioner

Regulation 116—Stop-Loss or Excess Policies of Insurance
(LAC 37:XIII.Chapter 169)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has promulgated Regulation 116, Stop-Loss or Excess Policies of Insurance. This regulation has been in order to codify the types of stop-loss or excess policies that can be used by employers sponsoring group health plans and in order to codify the requirements for disclosures under R.S. 22:883. This Rule is hereby adopted on the day of promulgation.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 169. Regulation 116—Stop-Loss or Excess Policies of Insurance

§16901. Purpose

A. The purpose of this regulation is to implement the provisions of Acts 2001, No. 273 of the Louisiana Legislature, Regular Session, as well as to implement the amendments thereto as set forth in Acts 2003, No. 140 of the Louisiana Legislature, Regular Session, Acts 2007, No. 80 of the Louisiana Legislature, Regular Session, and Acts 2010, No. 375 of the Louisiana Legislature, Regular Session.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:698 (May 2020).

§16903. Applicability and Scope

A. This regulation shall apply to employers that sponsor group health plans.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:698 (May 2020).

§16905. Definitions

Group Health Plan—an employee welfare benefit plan as defined in Section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)) to the extent that the plan provides medical care as defined in this regulation and including items and services paid for as medical care for employees or their dependents, as defined under the terms of the plan, directly or through insurance, reimbursement, or otherwise, or only to a multiple employer welfare arrangement that is a self-insurer and does not include those multiple employer welfare arrangements that meet the definition in 29 U.S.C. 1002(40).

Medical Care—amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or amounts paid for the purpose of affecting any stricture or function of the body; transportation primarily for and essential to such medical care; and amounts paid for insurance covering such medical care, as defined in R.S. 22:1061(1)(b).

Paid Contract Basis—allows claims incurred under a "group health plan" during the contract period of a stop-loss or excess policy to be paid during the policy's twelve-month contract period.

Run-In Contract Basis—allows for reimbursement of claims incurred under a group health plan during a stated period prior to the effective date of the twelve-month contract period of a stop-loss or excess policy and paid during the twelve-month contract period.

Run-Out Contract Basis—allows for reimbursement of claims incurred under a group health plan during the stated twelve-month contract period and paid within a stated period extending at least 90 days after expiration of the twelve-month contract period.

Self-Insurance Plan—any contract, plan, trust, arrangement, or other agreement which is established or maintained to offer or provide health care services, indemnification, or payment for health care services, or health and accident benefits to employees of two or more employers, but which is not fully insured. Any such contract, plan, trust, arrangement, or agreement shall be deemed fully insured only if said services, indemnification, payment, or benefits are guaranteed under a contract or policy of health insurance issued by an insurer authorized to transact business in this state. The term *self-insurance plan* shall not include any arrangement or trust formed under Subpart J of Part I of Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950 (R.S. 23:1191 et seq.), single employer plans, plans exempt from the state insurance laws under the provisions of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.), except as provided in R.S. 22:463, the Office of Group Benefits, plans of political subdivisions, health maintenance organizations regulated under the Health Management Organization Act, R.S. 22:241 et seq., plans regulated under R.S. 33:1342, 1343, 1346, or 1349, and plans otherwise regulated as insured plans under this Title. A plan of a fraternal benefit society or a labor organization shall not be considered a self-insurance plan for the purposes of this Subpart to the extent that such plan provides health and accident benefits to its members and any of their dependents that are supplemental to those of an employer-provided plan.

Self-Insured Multiple Employer Welfare Arrangement—a multiple employer welfare arrangement as defined in 29 U.S.C. § 1002(40).

Self-Insurer—any entity that makes, provides, or issues a self-insurance plan and is licensed by the LDI.

Stop-Loss or *Excess Policy/Policies*—insurance covering the losses of an insured above a specific amount or a self-insurer for losses over a stated amount.

Terminal Liability—group health plan that provides an extra ninety days of protection upon termination of the Run-out contract period.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:698 (May 2020).

§16907. Eligible Claims

A. Stop-loss or excess policies are required to contain a provision that eligible claims incurred under the group health plan during the initial contract period shall be covered, provided that proof of payment of the eligible claims by the group health plan is furnished to the stop-loss or excess insurer within ninety days after the expiration of

the stop-loss or excess policy or any later period that is provided in the contract or stop-loss or excess policy.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:698 (May 2020).

§16909. Available Claims Incurred and Paid Contract Bases

A. The following claims incurred and paid contract bases are available to suit the needs of diverse employers sponsoring group health plans:

1. paid as defined in Section 16903;
2. run-in as defined in Section 16903;
3. run-out as defined in Section 16903;
4. terminal liability as defined in Section 16903.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:699 (May 2020).

§16911 Policy Form Requirements

A. Stop loss or excess policy forms intended to cover the losses of a group health plan must include the following requirements.

1. Eligible claims incurred under the group health plan during the initial contract period will be covered, as long as the "group health plan" submits to the stop loss or excess insurer proof of payment of the eligible claim within 90 days after the expiration of the policy, or within any longer period that is provided in the contract or policy.

2. All applications for stop-loss or excess coverage must include the option to purchase a policy providing coverage on a run-out contract basis. A run-out contract basis extends the claims paid period for at least 90 days beyond expiration of the twelve-month contract term, the period within which claims incurred during the contract term must be submitted and paid.

3. All applications for stop-loss or excess insurance coverage that include the option to purchase a policy providing coverage restricted to claims both incurred and paid during the contract term must contain a form for acceptance or rejection of the ninety-day extension for claims to be submitted and paid, i.e., run-out coverage. To reject such offer, the applicant and the writing producer must both sign and date the application or a supplemental application form containing disclosures such as the following.

a. "It is hereby agreed and understood that the stop-loss [excess] insurance contract selected does not provide reimbursement to the plan sponsor for any expenses incurred under the "group health plan" prior to the beginning of the contract period for stop-loss [excess] insurance or for any expenses paid after expiration of the contract period. Only eligible expenses that are both incurred under the group health plan and paid by the group health plan within the twelve-month contract period for stop-loss [excess] insurance are reimbursable under the contract selected."

4. All applications for stop-loss or excess insurance including options to purchase a policy providing coverage on a run-in or a paid contract basis must contain a form for acceptance or rejection. To reject such offer, the applicant and the writing producer must both sign and date the application or a supplemental application containing a disclosure such as the following.

a. "It is hereby agreed and understood that the stop-loss [excess] insurance contract selected does not provide reimbursement to the plan sponsor for any expenses that are not paid by the group health plan within the current contract period, unless the policy is subsequently renewed. Only eligible expenses that are both incurred and paid by the group health plan within the stated contract period are reimbursable under the contract selected."

5. If offered, provisions for terminal liability coverage must extend the period for payment of claims under the group health plan by at least an additional 90 days from termination of the run-out coverage period allowed for incurred claims.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:699 (May 2020).

§16913. Reinsurance/Health Insurance

A. Stop-loss or excess insurance shall not be equivalent to reinsurance, nor shall it be referred to as a contract or policy of health insurance under R.S. 22:452(1)(a).

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:699 (May 2020).

§16915. Due Diligence

A. Stop loss or excess insurers shall exercise due diligence in ascertaining the legitimacy or authority of the underlying group health plan before issuing coverage. This shall include but not be limited to ensuring that the underlying plan is not a self-insured multiple employer welfare arrangement pursuant to 29 U.S.C. §1002(40), unless the underlying plan is authorized to do business in this state as a self-insurer and meets the requirements of R.S. 22:452.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:699 (May 2020).

§16917. Additional Requirements for Stop-Loss or Excess Insurance

A. Stop loss or excess insurance issued to a self-insurance plan must meet the following requirements.

1. The plan must include a provision stating that aggregate stop-loss or excess coverage and specific stop-loss or excess coverage may only be provided by an insurer licensed to do business in the state of Louisiana.

2. The stop-loss or excess policies must contain provisions to cover incurred, unpaid claims liability in the event of plan termination.

3. The stop-loss or excess insurer shall bear the risk of coverage for any employer participating in the self-insurance plan that becomes insolvent with outstanding contributions due.

4. The stop-loss or excess insurer shall provide coverage with rates not subject to adjustment by the stop-loss or excess insurer during the first 12 months of coverage, unless:

a. there is a change in the benefits provided under the group health plan; and/or

b. enrollment under the group health plan changes by at least 10 percent.

5. A stop loss or excess insurer must submit its proposed stop-loss or excess policy to the Commissioner of the Department of Insurance for review at least 30 days prior to the proposed self-insurance plan's effective date and at least 30 days prior to any subsequent renewal date.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:699 (May 2020).

§16919. Severability

A. If any provision of this regulation, or the applicability thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the regulation which can be given effect without the invalid provision, item, or application.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:700 (May 2020).

§16921. Effective Date

A. Regulation 116 shall become effective upon final promulgation in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, in accordance with R.S. 22:2 and 22:883.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:700 (May 2020).

James J. Donelon
Commissioner

2005#006

RULE

Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission

Rulemaking Petitions (LAC 55:IX.Chapter 5)

In accordance with the Administrative Procedures Act, R.S. 49:950, et seq., specifically R.S. 49:953(C)(1), the Department of Public Safety and Corrections, Public Safety Services, Liquefied Petroleum Gas Commission, has adopted a Rule outlining the process for considering rulemaking petitions. This Rule is hereby adopted on the day of promulgation.

Title 55
PUBLIC SAFETY
Part IX. Liquefied Petroleum Gas
Chapter 5. Rulemaking Petitions

§501. Submission of a Rulemaking Petition

A. In accordance with R.S. 49:953(C)(1), any interested person may petition an agency to adopt a new rule, or to amend or repeal an existing rule.

B. To petition the Liquefied Petroleum Gas Commission, commonly known as and hereafter referred to as the LP Gas Commission, for the adoption, amending or repeal of any rule, an interested person shall submit in writing the Department of Public Safety's petition for rulemaking form to the LP Gas Commission at 7919 Independence Boulevard, Baton Rouge, LA 70806, Attn: Rulemaking Petition, which contains the following basic information organized and captioned:

1. the petitioner's name and address;

2. the specific rulemaking agency to be petitioned within the Department of Public Safety as listed on the form;

3. a brief description of the facts or justification supporting the petitioner's request for the adoption of a rule or the amending of a rule that has already been adopted;

4. suggested specific language or language setting forth the substance of the proposed rule or rule change that is being requested, which may be attached to, or in addition to, the petition for rulemaking form;

5. a copy of each and every document upon which the petitioner bases the petitioner's request for a rule or a citation of the information and where it can be easily obtained for review by the rulemaking agency;

6. the petitioner's signature and date of signature.

C. The Department of Public Safety's petition for rulemaking form can be found on the official website of the LP Gas Commission.

AUTHORITY NOTE: Promulgated in accordance with Act 454 of the 2018 Regular Legislative Session and R.S. 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 46:700 (May 2020).

§503. Consideration of a Rulemaking Petition

A. Upon receipt of a petition for rulemaking form, the executive director shall forward the petition to the agency designee. The agency designee shall review the petition for completeness pursuant to the requirements listed in LAC 55:IX.501.B. If the petition is found to be complete, the agency designee shall consider the petition.

B. Within 90 days of receipt of the petition, the executive director or the agency designee shall either:

1. initiate rulemaking procedures to adopt a new rule, or to amend an existing rule; or

2. notify the petitioner in writing of the denial to proceed with rulemaking, stating the reason(s) therefore.

C. Whenever the executive director or the agency designee determines that a public hearing should be held prior to the adoption of any rule or rule change, a notice of the meeting date, time and place will be published in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with Act 454 of the 2018 Regular Legislative Session and R.S. 49:953, et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Liquefied Petroleum Gas Commission, LR 46:700 (May 2020).

John W. Alario
Executive Director

2005#027