



April 8, 2013

The Honorable Dr. Ed Hernandez
Member
California State Senate
State Capitol, Room 2080
Sacramento, CA 95814

**SUBJECT: SB 161 (HERNANDEZ) SMALL EMPLOYER: HEALTH COVERAGE:
ELIMINATION OF COST CONTROL TOOL-OPPOSE
SENATE HEALTH COMMITTEE
SET FOR HEARING: MAY 1, 2013**

Dear Senator Hernandez:

The California Association of Health Underwriters (CAHU), the Independent Insurance Agents and Brokers of California (IIABCal) and the National Association of Insurance and Financial Advisors of California (NAIFA California) regret that we must **OPPOSE** your **SB 161 (Hernandez)**, as amended May 1, 2012. Our organizations are concerned that **SB 161** severely restricts ability of small employers in California to self-insure for health care coverage by unreasonably changing the limits and requirements of stop loss insurance policies.

Our organizations represent California's licensed health insurance agents. Our licensed members provide reliable insurance advice, act as the consumer's advocate when dealing with carriers and provide a number of essential services relating to the individual and group insurance coverage and obligations post-enrollment. Our members also act as a trusted and effective marketing and distribution channel for health insurance information for all consumers and potential consumers of health care insurance coverage.

As introduced, **SB 161** would require a minimum specific stop-loss deductible of \$95,000 per person, and an aggregate attachment point of \$19,000 per individual for employers with 50 or fewer employees. This means that a small employer would have to incur \$95,000 in per claim per employee costs before being able to seek reimbursement from the stop-loss carrier.

Our organizations are concerned that **SB 161** proposes to make it nearly impossible to provide reasonably priced catastrophic stop-loss insurance for small employers--most notably by requiring the small employer to bear an unreasonable level of claims costs before stop-loss coverage applies. Self-insurance combined with stop loss coverage for excessive, unexpected claims, frequently offers the best option for small employers seeking to find any way to provide affordable health coverage for their employees.

Today, in every state, stop-loss insurance can be purchased to cover claims over a certain amount for each individual plan member (specific stop-loss) or for the aggregated expected health claims of all covered members (aggregate stop-loss). An employer can choose one or both attachment points when purchasing coverage. The attachment point is the point at which the stop-loss insurer will reimburse the employer for paid claims. The self-insured employer remains liable to the employee and medical service provider to pay the claim; the stop-loss insurer is liable to the self-insured plan only.

SB 161 (Hernandez) – OPPOSE

Page 2

Additionally, federal law, the Employee Retirement Income Security Act of 1974 (ERISA) permits all employers to choose to self-fund. These self-insured plans must comply with fiduciary standards, along with significant reporting and disclosure requirements. Federal law also prescribes procedures to handle denied claims, recourse options and an ability to sue to recover entitled benefits. Employers that choose to self-fund pay for the enrollees' (and if applicable, their dependants) health expenditures out of general assets or through a trust. It is not a process that any employer, particularly a small employer enters into lightly, due to all of the new duties, paperwork and other obligations all self-funded plans require.

A key point to note in the self-funded process is that the employer bears the risk for unexpectedly high claims. That is why employers purchase actuarial-based catastrophic or "stop-loss" insurance because it is a prudent financial management that protects against unexpected, high dollar catastrophic losses.

However, **SB 161** would serve to remove this important protection for small group employers through the extremely high specific (\$95,000) attachment point per individual, as well as an aggregate attachment point per policy year that is less than the greater of one of the following:

- Nineteen thousand dollars (\$19,000) times the total number covered employees and dependents.
- One hundred twenty percent of expected claims.
- Ninety-five thousand dollars (\$95,000).

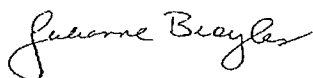
SB 161 also includes an unreasonable provision that mandates direct coverage of an employee's health claims that will force a small employer to front the cost of the claims, and then wait for up to a year before reimbursed by the insurer.

SB 161 takes away a critically important financial tool used by small employers to make prudent choices to control costs of providing health coverage. If a small employer wishes to finance their employee health coverage through self-insurance that includes purchasing actuarially appropriate stop loss policies, our three organizations believes they should continue to be allowed to do so.

For these reasons and more, CAHU, IIABCal and NAIFA California must respectfully oppose **SB 161 (Hernandez)**.

Please do not hesitate to contact us if you require further information: Juli Broyles (CAHU) at 916-441-5050; John Norwood or Shane LaVigne (IIABCal) at (916) 447-5053, or Shari McHugh (NAIFA California) at (916) 930-1993.

Sincerely,



Julianne Broyles
CAHU



Shari McHugh
NAIFA-CA



John A. Norwood
IIABCal

Enclosure: Stop Loss Background

cc: Office of Governor Brown
Members, Senate Health Committee
Tim Valderrama, Senate Health Committee
Joe Parra, Senate Republican Caucus