

2963

2009-2010 Regular Sessions

I N   A S S E M B L Y

January 22, 2009

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Introduced by M. of A. BARCLAY, KOLB -- Multi-Sponsored by -- M. of A. GIGLIO, HAWLEY -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to the rating of individual and small group health insurance policies and contracts and several stop loss funds; and to repeal the closing paragraph of subsection (c) of section 3233 of the insurance law relating to convening the technical advisory committee periodically to evaluate the impact of the standardized direct payment enrollee contracts offered pursuant to sections 4321 and 4322 of such law on the individual health insurance market

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subsections (a) and (b) of section 3231 of the insurance  
2     law, subsection (a) as amended by chapter 661 of the laws of 1997 and  
3     subsection (b) as amended by chapter 557 of the laws of 2002, are  
4     amended to read as follows:  
5     (a) No individual health insurance policy and no group health insur-  
6     ance policy covering [between two and] A GROUP OF fifty OR FEWER employ-  
7     ees or members of the group exclusive of spouses and dependents, herein-  
8     after referred to as a small group, providing hospital and/or medical  
9     benefits, including medicare supplemental insurance, shall be issued in  
10    this state unless such policy is community rated and, notwithstanding  
11    any other provisions of law, the underwriting of such policy involves no  
12    more than the imposition of a pre-existing condition limitation as  
13    permitted by this article. Any individual, and dependents of such indi-  
14    vidual, and any small group, including all employees or group members  
15    and dependents of employees or members, applying for individual health  
16    insurance coverage, including medicare supplemental coverage, or small  
17    group health insurance coverage, including medicare supplemental insur-  
18    ance, must be accepted at all times throughout the year for any hospital  
19    and/or medical coverage offered by the insurer to individuals or small

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD03019-01-9

1 groups in this state. Once accepted for coverage, an individual or small  
2 group cannot be terminated by the insurer due to claims experience.  
3 Termination of an individual or small group shall be based only on one  
4 or more of the reasons set forth in subsection (g) of section three  
5 thousand two hundred sixteen or subsection (p) of section three thousand  
6 two hundred twenty-one of this article. Group hospital and/or medical  
7 coverage, including medicare supplemental insurance, obtained through an  
8 out-of-state trust covering a group of fifty or fewer employees or  
9 participating persons who are residents of this state must be community  
10 rated regardless of the situs of delivery of the policy. Notwithstanding  
11 any other provisions of law, the underwriting of such policy may involve  
12 no more than the imposition of a pre-existing condition limitation as  
13 permitted by this article, and once accepted for coverage, an individual  
14 or small group cannot be terminated due to claims experience. Termi-  
15 nation of an individual or small group shall be based only on one or  
16 more of the reasons set forth in subsection (p) of section three thou-  
17 sand two hundred twenty-one of this article. For the purposes of this  
18 section, "community rated" means a rating methodology in which the  
19 premium for all persons covered by a policy or contract form is the same  
20 based on the experience of the entire pool of risks covered by that  
21 policy or contract form without regard to age, sex, health status or  
22 occupation.

23 (b) Nothing herein shall prohibit the use of premium rate structures  
24 to establish different premium rates for individuals as opposed to fami-  
25 ly units [or separate community rates for individuals as opposed to  
26 small groups. If an insurer is required to issue a contract to individ-  
27 ual proprietors pursuant to subsection (i) of this section, such policy  
28 shall be subject to subsection (a) of this section].

29 S 2. Subsections (a) and (b) of section 4317 of the insurance law,  
30 subsection (a) as amended by chapter 661 of the laws of 1997 and  
31 subsection (b) as amended by chapter 557 of the laws of 2002, are  
32 amended to read as follows:

33 (a) No individual health insurance contract and no group health insur-  
34 ance contract covering [between two and] A GROUP OF fifty OR FEWER  
35 employees or members of the group exclusive of spouses and dependents,  
36 including contracts for which the premiums are paid by a remitting agent  
37 for a group, hereinafter referred to as a small group, providing hospi-  
38 tal and/or medical benefits, including Medicare supplemental insurance,  
39 shall be issued in this state unless such contract is community rated  
40 and, notwithstanding any other provisions of law, the underwriting of  
41 such contract involves no more than the imposition of a pre-existing  
42 condition limitation as permitted by this article. Any individual, and  
43 dependents of such individual, and any small group, including all  
44 employees or group members and dependents of employees or members,  
45 applying for individual or small group health insurance coverage must be  
46 accepted at all times throughout the year for any hospital and/or  
47 medical coverage, including Medicare supplemental insurance, offered by  
48 the corporation to individuals or small groups in this state. Once  
49 accepted for coverage, an individual or small group cannot be terminated  
50 by the insurer due to claims experience. Termination of coverage for  
51 individuals or small groups may be based only on one or more of the  
52 reasons set forth in subsection (c) of section four thousand three  
53 hundred four or subsection (j) of section four thousand three hundred  
54 five of this article. For the purposes of this section, "community  
55 rated" means a rating methodology in which the premium for all persons  
56 covered by a policy or contract form is the same, based on the experi-

1   ence of the entire pool of risks covered by that policy or contract form  
2   without regard to age, sex, health status or occupation.

3   (b) Nothing herein shall prohibit the use of premium rate structures  
4   to establish different premium rates for individuals as opposed to fami-  
5   ly units [or separate community rates for individuals as opposed to  
6   small groups. If a corporation is required to issue a contract to indi-  
7   vidual proprietors pursuant to subsection (f) of this section, such  
8   contract shall be subject to the requirements of subsection (a) of this  
9   section].

10   S 3. The closing paragraph of subsection (c) of section 3233 of the  
11   insurance law is REPEALED and two new subsections (d) and (e) are added  
12   to read as follows:

13   (D) (1) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR ANY OTHER  
14   CHAPTER, ON OR BEFORE OCTOBER FIRST, TWO THOUSAND ELEVEN, THE SUPER-  
15   INTENDENT SHALL PROMULGATE REGULATIONS TO ENSURE AN ORDERLY IMPLEMENTA-  
16   TION AND ONGOING OPERATION OF THE OPEN ENROLLMENT AND COMMUNITY RATING  
17   REQUIRED BY SECTIONS THREE THOUSAND TWO HUNDRED THIRTY-ONE AND FOUR  
18   THOUSAND THREE HUNDRED SEVENTEEN OF THIS CHAPTER, AS AMENDED BY THE  
19   CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT ADDED THIS SUBSECTION,  
20   INCLUDING PROVISIONS DESIGNED TO ENCOURAGE INSURERS TO REMAIN IN OR  
21   ENTER THE SMALL GROUP HEALTH INSURANCE MARKET. SUCH REGULATIONS SHALL  
22   APPLY TO ALL INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS SUBJECT TO  
23   COMMUNITY RATING. SUCH REGULATIONS SHALL BE DESIGNED TO PROMOTE AN  
24   INSURANCE MARKETPLACE WHERE PREMIUMS DO NOT UNDULY FLUCTUATE, INSURERS  
25   AND HEALTH MAINTENANCE ORGANIZATIONS ARE REASONABLY PROTECTED AGAINST  
26   UNEXPECTED, SIGNIFICANT SHIFTS IN THE NUMBER OF PERSONS INSURED, AND  
27   OTHER MARKET STABILITY FEATURES DEEMED APPROPRIATE BY THE SUPERINTEN-  
28   DENT. SUCH REGULATIONS SHALL NOT REQUIRE ANY INSURER OR HEALTH MAINTE-  
29   NANCE ORGANIZATION SUBJECT TO THIS SECTION, OR ANY SUBSIDIARY OR  
30   CONTROLLED PERSON OF A HOLDING COMPANY OF SUCH INSURER OR HEALTH MAINTE-  
31   NANCE ORGANIZATION, TO ENTER, CONTINUE TO CONDUCT OR WITHDRAW FROM ANY  
32   LINE OF BUSINESS AS A CONDITION OF ENTERING, CONTINUING IN OR WITHDRAW-  
33   ING FROM ANY OTHER LINE OF BUSINESS.

34   (2) PRIOR TO ADOPTING SUCH REGULATIONS, THE SUPERINTENDENT SHALL  
35   CONVENE A TECHNICAL ADVISORY COMMITTEE, ON OR BEFORE FEBRUARY FIRST, TWO  
36   THOUSAND TEN, TO PROVIDE ADVICE AND RECOMMENDATIONS TO THE SUPERINTEN-  
37   DENT ON ISSUES INCLUDING, BUT NOT LIMITED TO, VOLUNTARY REINSURANCE,  
38   POOLING, RISK SHARING, THE ESTABLISHMENT OF A HIGH RISK OR HIGH COST  
39   MEDICAL CONDITIONS POOL, THE MODERATION OF INITIAL COMMUNITY RATES AS  
40   COMPARED TO PRIOR RATES, OR PREMIUM STABILIZATION METHODS. THE TECHNICAL  
41   ADVISORY COMMITTEE SHALL BE COMPRISED OF NINE MEMBERS, ONE OF WHOM SHALL  
42   BE THE SUPERINTENDENT OR HIS OR HER DESIGNEE. THE SUPERINTENDENT OR HIS  
43   OR HER DESIGNEE SHALL CHAIR THE COMMITTEE AND SHALL APPOINT TWO OTHER  
44   MEMBERS TO THE COMMITTEE. THE TEMPORARY PRESIDENT OF THE SENATE AND THE  
45   SPEAKER OF THE ASSEMBLY SHALL EACH APPOINT THREE MEMBERS TO THE COMMIT-  
46   TEE. THE APPOINTEES SHALL BE REPRESENTATIVES OF COMMERCIAL HEALTH  
47   INSURERS, NOT-FOR-PROFIT HEALTH INSURERS, HEALTH MAINTENANCE ORGANIZA-  
48   TIONS AND PURCHASERS OF INSURANCE AND SHALL BE NAMED NO LATER THAN JANU-  
49   ARY FIRST, TWO THOUSAND TEN. IN ADDITION, THE SUPERINTENDENT MAY OBTAIN  
50   THE SERVICES OF AN ACTUARY WITH EXPERIENCE RELATING TO PREMIUM RATES AND  
51   MARKET STABILIZATION FOR SMALL GROUP HEALTH INSURANCE.

52   (3) (A) SUCH REGULATIONS MAY INCLUDE REINSURANCE OR A POOLING PROCESS  
53   INVOLVING INSURER CONTRIBUTIONS TO, OR RECEIPTS FROM, A FUND WHICH SHALL  
54   BE DESIGNED TO SHARE THE RISK OF OR EQUALIZE HIGH COST CLAIMS, CLAIMS OF  
55   HIGH COST PERSONS, COST VARIATIONS AMONG INSURERS AND HEALTH MAINTENANCE  
56   ORGANIZATIONS BASED UPON DEMOGRAPHIC FACTORS OF THE PERSONS INSURED

1 WHICH CORRELATE WITH SUCH COST VARIATIONS DESIGNED TO PROTECT INSURERS  
2 FROM DISPROPORTIONATE ADVERSE RISKS OF OFFERING COVERAGE TO ALL APPLI-  
3 CANTS; PROVIDED THAT SUCH REGULATIONS SHALL RELATE ONLY TO RISK SHARING  
4 AMONG INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS AND SHALL NOT CREATE  
5 DIFFERENCES IN COMMUNITY RATES CHARGED BY A SINGLE INSURER BECAUSE A  
6 SMALL GROUP'S COVERAGE HAS BEEN REINSURED OR POOLED, AND NEITHER THE  
7 SMALL EMPLOYER NOR THE EMPLOYEE SHALL HAVE REASON TO KNOW THAT THEIR  
8 COVERAGE HAS BEEN REINSURED OR POOLED PURSUANT TO SUCH REGULATIONS.

9 (B) SUCH REGULATIONS MAY SPECIFY THE AGGREGATE TOTAL CONTRIBUTIONS BY  
10 HEALTH MAINTENANCE ORGANIZATIONS AND INSURERS BASED UPON SPECIFIED  
11 MEDICAL CONDITIONS, WHICH MAY BE INCREASED BY THE AGGREGATE TOTAL AMOUNT  
12 OF SAVINGS RESULTING FROM DECREASED CONTRIBUTIONS CALCULATED PURSUANT TO  
13 REGULATIONS BASED UPON DEMOGRAPHIC FACTORS.

14 (C) SUCH REGULATIONS MAY INCLUDE A REINSURANCE OR A POOLING PROCESS  
15 INVOLVING INSURER AND HEALTH MAINTENANCE ORGANIZATION CONTRIBUTIONS TO,  
16 OR RECEIPTS FROM, A FUND WHICH SHALL BE DESIGNED TO SHARE THE RISK OF OR  
17 EQUALIZE HIGH COST CLAIMS OR THE CLAIMS OF HIGH COST PERSONS; PROVIDED  
18 THAT SUCH REGULATIONS SHALL RELATE ONLY TO RISK SHARING AMONG INSURERS  
19 AND HEALTH MAINTENANCE ORGANIZATIONS AND SHALL NOT CREATE DIFFERENCES IN  
20 COMMUNITY RATES CHARGED BY A SINGLE INSURER OR HEALTH MAINTENANCE ORGAN-  
21 IZATION BECAUSE A SMALL GROUP'S COVERAGE HAS BEEN REINSURED OR POOLED,  
22 AND NEITHER THE INDIVIDUAL NOR THE SMALL EMPLOYER NOR THE EMPLOYEE SHALL  
23 HAVE REASON TO KNOW THAT THEIR COVERAGE HAS BEEN REINSURED OR POOLED  
24 PURSUANT TO SUCH REGULATIONS. SUCH REGULATIONS MAY ALSO INCLUDE OTHER  
25 MECHANISMS DESIGNED TO SHARE RISKS OR PREVENT UNDUE VARIATIONS IN INSUR-  
26 ER AND HEALTH MAINTENANCE ORGANIZATION CLAIM COSTS WHICH ARE NOT RELATED  
27 TO EXPECTED DIFFERENCES IN INSURER AND HEALTH MAINTENANCE ORGANIZATION  
28 COSTS BASED UPON COMPETITION, INNOVATION AND EFFICIENCY OF OPERATION.  
29 THE REGULATIONS MAY SEGREGATE ANY REINSURANCE, POOLING OR OTHER PROCESS  
30 AMONG VARIOUS GEOGRAPHIC REGIONS OF THE STATE.

31 (D) IN ORDER TO PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THE  
32 PROVISIONS OF THIS SUBSECTION IN AN ORDERLY MANNER THAT HELPS TO  
33 INCREASE THE AVAILABILITY OF HEALTH INSURANCE TO ALL MEMBERS OF THE  
34 SMALL GROUP MARKET, INCLUDING THOSE PERSONS THAT ARE CURRENTLY PLACED IN  
35 THE INDIVIDUAL OR DIRECT PAY MARKET, THE TECHNICAL ADVISORY COMMITTEE  
36 SHALL MAKE RECOMMENDATIONS TO:

37 (I) FORMULATE, DEVELOP, AND IMPLEMENT A PROGRAM OR METHODOLOGY TO  
38 ESTABLISH A HIGH RISK OR HIGH COST MEDICAL CONDITIONS POOL AND SMALL  
39 GROUP STOP LOSS FUND TO REIMBURSE NINETY PERCENT OF ALL BONA FIDE CLAIMS  
40 ABOVE SEVENTY-FIVE THOUSAND DOLLARS PAID BY HEALTH MAINTENANCE ORGANIZA-  
41 TIONS AND INSURERS IN A CALENDAR YEAR FOR ANY MEMBER OR INSURED COVERED  
42 IN THE NEW SMALL GROUP MARKET ESTABLISHED PURSUANT TO THE PROVISIONS OF  
43 THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT ADDED THIS SUBSECTION.  
44 ALL APPROVED CLAIMS PAID ON BEHALF OF MEMBERS OR INSURED COVERED IN THE  
45 NEW SMALL GROUP MARKET BY HEALTH MAINTENANCE ORGANIZATIONS AND INSURERS  
46 THAT ARE ABOVE THE SEVENTY-FIVE THOUSAND DOLLAR THRESHOLD SHALL BE REIM-  
47 BURSABLE, AS FUNDS ARE MADE AVAILABLE, FROM THE STOP LOSS FUNDS ESTAB-  
48 LISHED PURSUANT TO SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SEVEN OF  
49 THIS CHAPTER, THE STOP LOSS FUNDS ESTABLISHED PURSUANT TO SECTIONS FOUR  
50 THOUSAND THREE HUNDRED TWENTY-ONE-A AND FOUR THOUSAND THREE HUNDRED  
51 TWENTY-TWO-A OF THIS CHAPTER, AND THE TOBACCO CONTROL AND INSURANCE  
52 INITIATIVES POOL DISTRIBUTIONS ESTABLISHED PURSUANT TO SECTION TWO THOU-  
53 SAND EIGHT HUNDRED SEVEN-V OF THE PUBLIC HEALTH LAW.

54 (II) COORDINATE THE ISSUANCE OF NEW SMALL GROUP POLICIES OR CONTRACTS  
55 ISSUED AND RATED PURSUANT TO THIS CHAPTER WITH CONTRACTS ISSUED PURSUANT  
56 TO SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SIX OF THIS CHAPTER.

1 (III) DEVELOP A MECHANISM TO SHIFT ALL PERSONS COVERED BY INDIVIDUAL  
2 CONTRACTS OR POLICIES PAID ON A DIRECT PAYMENT BASIS ISSUED PURSUANT TO  
3 THIS ARTICLE AND SECTIONS FOUR THOUSAND THREE HUNDRED FOUR, FOUR THOU-  
4 SAND THREE HUNDRED TWENTY-ONE AND FOUR THOUSAND THREE HUNDRED TWENTY-TWO  
5 OF THIS CHAPTER TO THE NEW SMALL GROUP MARKET BY JANUARY FIRST, TWO  
6 THOUSAND SEVENTEEN.

7 (IV) DETERMINE WHETHER OR NOT CONTRACTS ISSUED PURSUANT TO SECTIONS  
8 FOUR THOUSAND THREE HUNDRED TWENTY-ONE AND FOUR THOUSAND THREE HUNDRED  
9 TWENTY-TWO OF THIS CHAPTER WILL CONTINUE TO BE NEEDED AND ISSUED TO  
10 ADEQUATELY SATISFY THE INSURANCE COVERAGE REQUIREMENTS OF ALL SEGMENTS  
11 OF THIS STATE'S POPULATION. FURTHER, THE COMMITTEE SHALL MAKE RECOMMEN-  
12 DATIONS TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER  
13 OF THE ASSEMBLY BY JULY FIRST, TWO THOUSAND TWELVE ON THE ADVISABILITY  
14 OF REPEALING SECTIONS FOUR THOUSAND THREE HUNDRED FOUR, FOUR THOUSAND  
15 THREE HUNDRED TWENTY-ONE AND FOUR THOUSAND THREE HUNDRED TWENTY-TWO OF  
16 THIS CHAPTER AND PROHIBITING THE ISSUANCE OF NEW DIRECT PAY CONTRACTS OR  
17 POLICIES TO ANY MEMBERS OR INSURED AFTER JANUARY FIRST, TWO THOUSAND  
18 THIRTEEN OR PERMITTING ALL INDIVIDUALS THAT HAVE INDIVIDUAL DIRECT PAY  
19 CONTRACTS OR POLICIES ISSUED PURSUANT TO THIS ARTICLE AND SECTIONS FOUR  
20 THOUSAND THREE HUNDRED FOUR, FOUR THOUSAND THREE HUNDRED TWENTY-ONE AND  
21 FOUR THOUSAND THREE HUNDRED TWENTY-TWO OF THIS CHAPTER BEFORE JANUARY  
22 FIRST, TWO THOUSAND THIRTEEN TO CONTINUE TO RENEW OR RETAIN SUCH  
23 CONTRACTS OR POLICIES AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN.

24 (V) DEVELOP PROGRAMS OR METHODOLOGIES TO ENSURE THAT APPROPRIATE  
25 MEDICAL CARE SHALL BE PROVIDED FOR ALL PERSONS PLACED IN A HIGH RISK OR  
26 HIGH COST MEDICAL CONDITIONS POOL. SUCH PROGRAM OR METHODOLOGY SHALL  
27 ENSURE THAT SUCH PERSONS RECEIVE APPROPRIATE AND COST EFFECTIVE MEDICAL  
28 CARE AND THAT THE LEVEL AND UTILIZATION OF BENEFITS PROVIDED FOR UNDER  
29 SUCH CONTRACTS OR POLICIES ARE ADEQUATE TO ADDRESS THE SERIOUS OR CHRON-  
30 IC MEDICAL CONDITIONS FACED BY SUCH PERSONS.

31 (E)(I) THE ADVISORY COMMITTEE SHALL BE DEEMED TO BE A PUBLIC BODY FOR  
32 THE PURPOSES SET FORTH IN THE OPEN MEETINGS LAW, AS SET FORTH IN ARTICLE  
33 SEVEN OF THE PUBLIC OFFICERS LAW. ALL COMMITTEE MEETINGS SHALL BE  
34 CONDUCTED ONLY AFTER FOURTEEN DAYS PRIOR PUBLIC NOTICE HAS BEEN GIVEN TO  
35 THE NEWS MEDIA GENERALLY AND PUBLISHED IN THREE STATEWIDE NEWSPAPERS OF  
36 GENERAL CIRCULATION, IN SUCH TRADE, INDUSTRY OR PROFESSIONAL PUBLICA-  
37 TIONS AS THE ADVISORY COMMITTEE SHALL DESIGNATE, AND IN THE STATE REGIS-  
38 TER.

39 (II) THE ADVISORY COMMITTEE SHALL ISSUE A REPORT THAT CONTAINS ITS  
40 FINDINGS AND RECOMMENDATIONS AS PROVIDED FOR PURSUANT TO THIS SUBSECTION  
41 TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE  
42 ASSEMBLY BY JANUARY FIRST, TWO THOUSAND ELEVEN.

43 (III) THE SUPERINTENDENT IN PROMULGATING RULES AND REGULATIONS TO  
44 IMPLEMENT THE PROVISIONS OF THIS SUBSECTION AND THE SMALL GROUP STOP  
45 LOSS FUND, MUST RELY ON THE FINDINGS AND RECOMMENDATIONS CONTAINED IN  
46 THE ADVISORY COMMITTEE'S REPORT, UNLESS HE OR SHE FINDS ON THE RECORD  
47 THAT SUCH RECOMMENDATIONS WOULD DESTABILIZE THE HEALTH INSURANCE MARKET,  
48 INSTIGATE SUBSTANTIAL INCREASES IN PREMIUM RATES OR SUBJECT INSURERS AND  
49 HEALTH MAINTENANCE INSURERS TO UNACCEPTABLE LOSS RATIOS OVER THE  
50 INITIAL TWO YEAR PERIOD OF TIME.

51 (IV) THE SUPERINTENDENT, IN PROMULGATING RULES AND REGULATIONS TO  
52 IMPLEMENT THE PROVISIONS OF THIS SUBSECTION, SHALL CONDUCT AT LEAST  
53 THREE SEPARATE PUBLIC HEARINGS (NOTICE WHEREOF SHALL BE GIVEN AS  
54 PROVIDED IN ITEM (I) OF THIS SUBPARAGRAPH) IN DIFFERENT PARTS OF THE  
55 STATE ACCEPT PUBLIC COMMENT ON THE COMMITTEE'S REPORT AND THE PROPOSED  
56 RULEMAKING SUBMITTED BY THE SUPERINTENDENT TO THE STATE REGISTER TO

1 IMPLEMENT THE PROVISIONS OF THIS SUBSECTION, IN ADDITION TO MEETING THE  
2 REQUIREMENTS OF THE STATE ADMINISTRATIVE PROCEDURE ACT; PROVIDED THAT  
3 THERE NEED BE NO DUPLICATION OF PERFORMANCE IN COMPLYING WITH THE  
4 PROVISIONS OF THIS ITEM AND THOSE OF THE STATE ADMINISTRATIVE PROCEDURE  
5 ACT.

6 (E) THE PROVISIONS OF THIS ARTICLE AND SECTIONS FOUR THOUSAND THREE  
7 HUNDRED FOUR, FOUR THOUSAND THREE HUNDRED TWENTY-ONE AND FOUR THOUSAND  
8 THREE HUNDRED TWENTY-TWO OF THIS CHAPTER AND ALL INDIVIDUAL CONTRACTS OR  
9 POLICIES PAID ON A DIRECT PAYMENT BASIS ISSUED PURSUANT TO THIS CHAPTER  
10 SHALL REMAIN IN EFFECT ON AND AFTER JANUARY FIRST, TWO THOUSAND THIR-  
11 TEEN, PROVIDED, HOWEVER, THAT, AFTER JANUARY FIRST, TWO THOUSAND THIR-  
12 TEEN, NO ADDITIONAL NEW CONTRACTS OR POLICIES MAY BE ISSUED TO INDIVID-  
13 UALS THAT DID NOT SUBSCRIBE TO SUCH CONTRACTS OR POLICIES PRIOR TO  
14 DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE. ALL INDIVIDUAL CONTRACTS OR  
15 POLICIES IN FORCE PURSUANT TO THIS ARTICLE, OR SECTIONS FOUR THOUSAND  
16 THREE HUNDRED FOUR, FOUR THOUSAND THREE HUNDRED TWENTY-ONE AND FOUR  
17 THOUSAND THREE HUNDRED TWENTY-TWO OF THIS CHAPTER AFTER DECEMBER THIR-  
18 TY-FIRST, TWO THOUSAND TWELVE SHALL CONTINUE TO BE COMMUNITY RATED WITH  
19 OTHER GROUPS OF ONE AS PROVIDED FOR BY SECTIONS THREE THOUSAND TWO  
20 HUNDRED THIRTY-ONE AND FOUR THOUSAND THREE HUNDRED SEVENTEEN OF THIS  
21 CHAPTER AS SAID SECTIONS THREE THOUSAND TWO HUNDRED THIRTY-ONE AND FOUR  
22 THOUSAND THREE HUNDRED SEVENTEEN WERE IN EFFECT PRIOR TO THE EFFECTIVE  
23 DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND NINE THAT ADDED THIS  
24 SUBSECTION. HOLDERS OF ALL SUCH CONTRACTS OR POLICIES SHALL HAVE THE  
25 RIGHT TO RENEW AND CONTINUE THEIR CONTRACTS OR POLICIES UNDER THE SAME  
26 TERMS AND CONDITIONS UNTIL JANUARY FIRST, TWO THOUSAND SEVENTEEN.

27 S 4. Subparagraph (O) of paragraph 4 of subsection (j) of section 4301  
28 of the insurance law, as added by section 8 of part A of chapter 1 of  
29 the laws of 2002, is amended to read as follows:

30 (O) Notwithstanding any other provision of law, the board shall direct  
31 that such proceeds of the public asset are disbursed in accordance with  
32 direction from the director of the division of the budget and trans-  
33 ferred to the credit of the tobacco control and insurance initiatives  
34 pool, or its successor to be used for the exclusive purposes provided  
35 therein, AND TO THE STOP LOSS FUNDS ESTABLISHED PURSUANT TO SUBSECTION  
36 (D) OF SECTION THREE THOUSAND TWO HUNDRED THIRTY-THREE OF THIS CHAPTER  
37 AND SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SEVEN OF THIS ARTICLE.

38 S 5. Section 4321-a of the insurance law, as added by chapter 1 of the  
39 laws of 1999, paragraph 2 of subsection (e) as amended by chapter 419 of  
40 the laws of 2000, is amended to read as follows:

41 S 4321-a. Fund for standardized individual enrollee direct payment  
42 contracts. (a) The superintendent shall establish a fund from which  
43 health maintenance organizations may receive reimbursement, to the  
44 extent of funds available therefor, for claims paid by such health main-  
45 tenance organizations for members covered under standardized individual  
46 enrollee direct payment contracts issued pursuant to section four thou-  
47 sand three hundred twenty-one of this article AND FOR ALL SMALL GROUP  
48 POLICES OR CONTRACTS ISSUED AFTER JANUARY ONE, TWO THOUSAND TWELVE. The  
49 fund established by the superintendent pursuant to this section shall be  
50 known as the direct payment stop loss fund. Commencing in calendar year  
51 two thousand, health maintenance organizations shall be eligible to  
52 receive reimbursement from the direct payment stop loss fund for ninety  
53 percent of claims paid between twenty thousand and one hundred thousand  
54 dollars in a calendar year for any member covered under a contract  
55 issued pursuant to section four thousand three hundred twenty-one of  
56 this article AND FOR ALL SMALL GROUP POLICIES OR CONTRACTS ISSUED AFTER

1 JANUARY ONE, TWO THOUSAND TWELVE. For the purposes of this section,  
2 claims shall include health care claims paid by a health maintenance  
3 organization on behalf of a covered member pursuant to such standardized  
4 direct payment contracts OR A SMALL GROUP POLICY OR CONTRACT.

5 (b) The superintendent shall promulgate regulations setting forth  
6 procedures for the operation of the direct payment stop loss fund AND  
7 THE SMALL GROUP STOP LOSS FUND ESTABLISHED PURSUANT TO SUBSECTION (D) OF  
8 SECTION THREE THOUSAND TWO HUNDRED THIRTY-THREE OF THIS CHAPTER and the  
9 distribution of monies therefrom.

10 (c) Claims shall be reported and funds shall be distributed on a  
11 calendar year basis. Claims shall be eligible for reimbursement only for  
12 the calendar year in which the claims are paid. Once claims paid on  
13 behalf of a member reach or exceed one hundred thousand dollars in a  
14 given calendar year, no further claims paid on behalf of such member in  
15 such calendar year shall be eligible for reimbursement.

16 (d) Each health maintenance organization shall submit a request for  
17 reimbursement from the stop loss fund on a form prescribed by the super-  
18 intendent. Such request for reimbursement shall be submitted no later  
19 than April first following the end of the calendar year for which the  
20 reimbursement request is being made. The superintendent may require  
21 health maintenance organizations to submit such claims data in  
22 connection with the reimbursement request as he OR SHE deems necessary  
23 to enable him OR HER to distribute monies and oversee the operation of  
24 the direct payment stop loss fund AND THE SMALL GROUP STOP LOSS FUND.  
25 The superintendent may require that such data be submitted on a per  
26 member, aggregate and/or categorical basis.

27 (e) The superintendent shall calculate the total claims reimbursement  
28 amount for all health maintenance organizations for the calendar year  
29 for which claims are being reported.

30 (1) In the event that the total amount requested for reimbursement by  
31 all health maintenance organizations for a calendar year exceeds funds  
32 available for distribution for claims paid by all health maintenance  
33 organizations during that same calendar year, the superintendent shall  
34 provide for the pro-rata distribution of the available funds. Each  
35 health maintenance organization shall be eligible to receive only such  
36 proportionate amount of the available funds as the individual health  
37 maintenance organization's total eligible claims paid bears to the total  
38 eligible claims paid by all health maintenance organizations.

39 (2) In the event that (A) funds available for distribution for claims  
40 paid by all health maintenance organizations during a calendar year  
41 exceeds the total amount requested for reimbursement by all health main-  
42 tenance organizations during that same calendar year, and (B) the total  
43 amount requested for reimbursement by all health maintenance organiza-  
44 tions from the direct payment out-of-plan stop loss fund exceeds the  
45 amount available for distribution from such fund, then any excess funds  
46 shall be reallocated for distribution to the direct payment out-of-plan  
47 stop loss fund AND THE SMALL GROUP STOP LOSS FUND. Otherwise, such  
48 excess funds shall be carried forward and will not affect monies appro-  
49 priated for the direct payment stop loss fund in the next calendar year.

50 (f) Upon the request of the superintendent, each health maintenance  
51 organization shall be required to furnish such data as the superinten-  
52 dent deems necessary to oversee the operation of the direct payment stop  
53 loss fund. Such data shall be furnished in a form prescribed by the  
54 superintendent.

55 (g) The superintendent may obtain the services of an organization to  
56 administer the direct payment stop loss fund. The superintendent shall

1 establish guidelines for the submission of proposals by organizations  
2 for the purposes of administering the fund. The superintendent shall  
3 make a determination whether to approve, disapprove or recommend modifi-  
4 cation to the proposal of an applicant to administer the fund. An organ-  
5 ization approved to administer the fund shall submit reports to the  
6 superintendent in such form and at times as may be required by the  
7 superintendent in order to facilitate evaluation and ensure orderly  
8 operation of the fund, including, but not limited to an annual report of  
9 the affairs and operations of the fund, such report to be delivered to  
10 the superintendent and to the chairs of the senate finance committee and  
11 assembly ways and means committee. An organization approved to adminis-  
12 ter the fund shall maintain records in a form prescribed by the super-  
13 intendent and which shall be available for inspection by or at the  
14 request of the superintendent. The superintendent shall determine the  
15 amount of compensation to be allocated to an approved organization as  
16 payment for fund administration. Compensation shall be payable from the  
17 direct payment stop loss fund. An organization approved to administer  
18 the fund may be removed by the superintendent and must cooperate in the  
19 orderly transition of services to another approved organization or to  
20 the superintendent.

21 (h) If the superintendent deems it appropriate for the proper adminis-  
22 tration of the direct payment stop loss fund, the administrator of the  
23 fund, on behalf of and with the prior approval of the superintendent,  
24 shall be authorized to purchase stop loss insurance and/or reinsurance  
25 from an insurance company licensed to write such type of insurance in  
26 this state. Such stop loss insurance and/or reinsurance may be purchased  
27 to the extent of funds available therefor within such funds which are  
28 available for purposes of the stop loss fund.

29 (I) AS INDIVIDUALS TRANSFER FROM THE STANDARDIZED INDIVIDUAL ENROLLEE  
30 DIRECT PAYMENT CONTRACTS TO THE SMALL GROUP MARKET, AN ACTUARIALLY  
31 APPROPRIATE AMOUNT, AS DETERMINED BY THE SUPERINTENDENT, SHALL BE TRANS-  
32 FERRED FROM THE DIRECT PAYMENT STOP LOSS FUND TO THE SMALL GROUP STOP  
33 LOSS FUND.

34 S 6. Section 4322-a of the insurance law, as added by chapter 1 of the  
35 laws of 1999, paragraph 2 of subsection (e) as amended by chapter 419 of  
36 the laws of 2000, is amended to read as follows:

37 S 4322-a. Fund for standardized individual enrollee direct payment  
38 contracts which provide out-of-plan benefits. (a) The superintendent  
39 shall establish a fund from which health maintenance organizations may  
40 receive reimbursement, to the extent of funds available therefor, for  
41 claims paid by such health maintenance organizations for members covered  
42 under standardized individual enrollee direct payment contracts which  
43 provide out-of-plan benefits issued pursuant to section four thousand  
44 three hundred twenty-two of this article AND FOR ALL SMALL GROUP POLI-  
45 CIES OR CONTRACTS ISSUED AFTER JANUARY ONE, TWO THOUSAND TWELVE. The  
46 fund established by the superintendent pursuant to this section shall be  
47 known as "the direct payment out-of-plan stop loss fund". Commencing in  
48 calendar year two thousand, health maintenance organizations shall be  
49 eligible to receive reimbursement from the direct payment out-of-plan  
50 stop loss fund for ninety percent of claims paid between twenty thousand  
51 and one hundred thousand dollars in a calendar year for any member  
52 covered under a contract issued pursuant to section four thousand three  
53 hundred twenty-two of this article AND FOR ALL SMALL GROUP POLICIES OR  
54 CONTRACTS ISSUED AFTER JANUARY ONE, TWO THOUSAND TWELVE. For the  
55 purposes of this section, claims shall include health care claims paid  
56 by a health maintenance organization on behalf of a covered member



1 pursuant to contracts issued pursuant to section four thousand three  
2 hundred twenty-two of this article OR A SMALL GROUP POLICY OR CONTRACT.

3 (b) The superintendent shall promulgate regulations that set forth  
4 procedures for the operation of the direct payment out-of-plan stop loss  
5 fund AND THE SMALL GROUP STOP LOSS FUND ESTABLISHED PURSUANT TO  
6 SUBSECTION (D) OF SECTION THREE THOUSAND TWO HUNDRED THIRTY-THREE OF  
7 THIS CHAPTER and the distribution of monies therefrom.

8 (c) Claims shall be reported and funds shall be distributed on a  
9 calendar year basis. Claims shall be eligible for reimbursement only for  
10 the calendar year in which the claims are paid. Once claims paid on  
11 behalf of a member reach or exceed one hundred thousand dollars in a  
12 given calendar year, no further claims paid on behalf of such member in  
13 that calendar year shall be eligible for reimbursement.

14 (d) Each health maintenance organization shall submit a request for  
15 reimbursement from the stop loss fund on a form prescribed by the super-  
16 intendent. Such request for reimbursement shall be submitted no later  
17 than April first following the end of the calendar year for which the  
18 reimbursement request is being made. The superintendent may require  
19 health maintenance organizations to submit such claims data in  
20 connection with the reimbursement request as he OR SHE deems necessary  
21 to enable him OR HER to distribute monies and oversee the operation of  
22 the direct payment out-of-plan stop loss fund AND THE SMALL GROUP STOP  
23 LOSS FUND. The superintendent may require that such data be submitted  
24 on a per member, aggregate and/or categorical basis.

25 (e) The superintendent shall calculate the total claims reimbursement  
26 amount for all health maintenance organizations for the calendar year  
27 for which claims are being reported.

28 (1) In the event that the total amount requested for reimbursement by  
29 all health maintenance organizations for a calendar year exceeds funds  
30 available for distribution for claims paid by all health maintenance  
31 organizations during that same calendar year, the superintendent shall  
32 provide for the pro-rata distribution of the available funds. Each  
33 health maintenance organization shall be eligible to receive only such  
34 proportionate amount of the available funds as the individual health  
35 maintenance organization's total eligible claims bears to the total  
36 eligible claims paid by all health maintenance organizations.

37 (2) In the event that (A) funds available for distribution for claims  
38 paid by all health maintenance organizations during a calendar year  
39 exceeds the total amount requested for reimbursement by all health main-  
40 tenance organizations during that same calendar year, and (B) the total  
41 amount requested for reimbursement by all health maintenance organiza-  
42 tions from the direct payment stop loss fund exceeds the amount avail-  
43 able for distribution from such fund, then any excess funds shall be  
44 reallocated for distribution to the direct payment stop loss fund AND  
45 THE SMALL GROUP STOP LOSS FUND. Otherwise, such excess funds shall be  
46 carried forward and shall not affect the monies appropriated for the  
47 direct payment out-of-plan stop loss fund in the next calendar year.

48 (f) Upon the request of the superintendent, each health maintenance  
49 organization shall be required to furnish such data as the superinten-  
50 dent deems necessary to oversee the operation of the direct payment  
51 out-of-plan stop loss fund. Such data shall be furnished in a form  
52 prescribed by the superintendent.

53 (g) The superintendent may obtain the services of an organization to  
54 administer the direct payment out-of-plan stop loss fund. The super-  
55 intendent shall establish guidelines for the submission of proposals by  
56 organizations for the purposes of administering the fund. The super-

1 intendent shall make a determination whether to approve, disapprove or  
2 recommend modification to the proposal of an applicant to administer the  
3 fund. An organization approved to administer the fund shall submit  
4 reports to the superintendent in such form and at times as may be  
5 required by the superintendent in order to facilitate evaluation and  
6 ensure orderly operation of the fund, including, but not limited to, an  
7 annual report of the affairs and operations of the fund, such report to  
8 be delivered to the superintendent and to the chairs of the senate  
9 finance committee and assembly ways and means committee. An organization  
10 approved to administer the fund shall maintain records in a form  
11 prescribed by the superintendent and which shall be available for  
12 inspection by or at the request of the superintendent. The superinten-  
13 dent shall determine the amount of compensation to be allocated to an  
14 approved organization as payment for fund administration. Compensation  
15 shall be payable from the direct payment out-of-plan stop loss fund. An  
16 organization approved to administer the fund may be removed by the  
17 superintendent and must cooperate in the orderly transition of services  
18 to another approved organization or to the superintendent.

19 (h) If the superintendent deems it appropriate for the proper adminis-  
20 tration of the direct payment out-of-plan stop loss fund, the adminis-  
21 trator of the fund, on behalf of and with the prior approval of the  
22 superintendent, shall be authorized to purchase stop loss insurance  
23 and/or reinsurance from an insurance company licensed to write such type  
24 of insurance in this state. Such stop loss insurance and/or reinsurance  
25 may be purchased to the extent of funds available therefor within such  
26 funds which are available for purposes of the stop loss fund.

27 (I) AS INDIVIDUALS TRANSFER FROM THE STANDARDIZED INDIVIDUAL ENROLLEE  
28 DIRECT PAYMENT CONTRACTS WHICH PROVIDE OUT-OF-PLAN BENEFITS TO THE SMALL  
29 GROUP MARKET, AN ACTUARIALLY APPROPRIATE AMOUNT, AS DETERMINED BY THE  
30 SUPERINTENDENT, SHALL BE TRANSFERRED FROM THE DIRECT PAYMENT OUT-OF-PLAN  
31 STOP LOSS FUND TO THE SMALL GROUP STOP LOSS FUND.

32 S 7. The section heading and subsections (a), (b), (c), (d), (e), (f),  
33 (h), (i), (q) and (r) of section 4327 of the insurance law, as added by  
34 chapter 1 of the laws of 1999, subsection (h) as amended by chapter 419  
35 of the laws of 2000, are amended to read as follows:

36 Stop loss funds for standardized health insurance contracts issued to  
37 qualifying small employers and qualifying individuals AND THE SMALL  
38 GROUP MARKET. (a) The superintendent shall establish a fund from which  
39 health maintenance organizations, corporations or insurers may receive  
40 reimbursement, to the extent of funds available therefor, for claims  
41 paid by such health maintenance organizations, corporations or insurers  
42 for members covered under qualifying group health insurance contracts  
43 issued pursuant to section THREE THOUSAND TWO HUNDRED THIRTY-ONE OF THIS  
44 CHAPTER AND SECTIONS FOUR THOUSAND THREE HUNDRED SEVENTEEN AND four  
45 thousand three hundred twenty-six of this article. This fund shall be  
46 known as the "small employer stop loss fund". The superintendent shall  
47 establish a separate and distinct fund from which health maintenance  
48 organizations, corporations or insurers may receive reimbursement, to  
49 the extent of funds available therefor, for claims paid by such health  
50 maintenance organizations, corporations or insurers for members covered  
51 under qualifying individual health insurance contracts issued pursuant  
52 to section four thousand three hundred twenty-six of this article. This  
53 fund shall be known as the "qualifying individual stop loss fund".

54 (b) Commencing on January first, two thousand one, health maintenance  
55 organizations, corporations or insurers shall be eligible to receive  
56 reimbursement for ninety percent of claims paid between thirty thousand

1 and one hundred thousand dollars in a calendar year for any member  
2 covered under a standardized contract issued pursuant to section four  
3 thousand three hundred twenty-six of this article OR A CONTRACT OR POLI-  
4 CY ISSUED PURSUANT TO SECTION THREE THOUSAND TWO HUNDRED THIRTY-ONE OF  
5 THIS CHAPTER OR SECTION FOUR THOUSAND THREE HUNDRED SEVENTEEN OF THIS  
6 ARTICLE, PURSUANT TO REGULATIONS PROMULGATED PURSUANT TO SUBSECTION (D)  
7 OF SECTION THREE THOUSAND TWO HUNDRED THIRTY-THREE OF THIS CHAPTER.  
8 Claims paid for members covered under qualifying group health insurance  
9 contracts shall be reimbursable from the small employer stop loss fund.  
10 Claims paid for members covered under qualifying individual health  
11 insurance contracts shall be reimbursable from the qualifying individual  
12 stop loss fund; PROVIDED, HOWEVER, THAT THE SUPERINTENDENT, IN CONSULTA-  
13 TION WITH THE DIRECTOR OF THE BUDGET, MAY TRANSFER AN ACTUARIALLY APPRO-  
14 PRIATE AMOUNT OF FUNDS FROM THE SMALL EMPLOYER STOP LOSS FUND AND THE  
15 QUALIFYING INDIVIDUAL STOP LOSS FUND TO ESTABLISH THE SMALL GROUP STOP  
16 LOSS FUND ESTABLISHED PURSUANT TO SUBSECTION (D) OF SECTION THREE THOU-  
17 SAND TWO HUNDRED THIRTY-THREE OF THIS CHAPTER. For the purposes of this  
18 section, claims shall include health care claims paid by a health main-  
19 tenance organization on behalf of a covered member pursuant to such  
20 standardized contracts.

21 (c) The superintendent shall promulgate regulations that set forth  
22 procedures for the operation of the small employer stop loss fund [and],  
23 the qualifying individual stop loss fund, AND THE SMALL GROUP STOP LOSS  
24 FUND ESTABLISHED PURSUANT TO SUBSECTION (D) OF SECTION THREE THOUSAND  
25 TWO HUNDRED THIRTY-THREE OF THIS CHAPTER and distribution of monies  
26 therefrom.

27 (d) The small employer stop loss fund shall operate separately from  
28 the qualifying individual stop loss fund. Except as specified in  
29 subsection (b) of this section with respect to calendar year two thou-  
30 sand one, the level of stop loss coverage for the qualifying group  
31 health insurance contracts and the qualifying individual health insur-  
32 ance contracts need not be the same. The two stop loss funds need not be  
33 structured or operated in the same manner, except as specified in this  
34 section. The monies available for distribution from the stop loss funds  
35 may be reallocated between the small employer stop loss fund [and], the  
36 qualifying individual stop loss fund, AND THE SMALL GROUP STOP LOSS FUND  
37 ESTABLISHED PURSUANT TO SUBSECTION (D) OF SECTION THREE THOUSAND TWO  
38 HUNDRED THIRTY-THREE OF THIS CHAPTER if the superintendent determines  
39 that such reallocation is warranted due to enrollment trends.

40 (e) Claims shall be reported and funds shall be distributed from the  
41 small employer stop loss fund [and], from the qualifying individual stop  
42 loss fund, AND THE SMALL GROUP STOP LOSS FUND ESTABLISHED PURSUANT TO  
43 SUBSECTION (D) OF SECTION THREE THOUSAND TWO HUNDRED THIRTY-THREE OF  
44 THIS CHAPTER on a calendar year basis. Claims shall be eligible for  
45 reimbursement only for the calendar year in which the claims are paid.  
46 Once claims paid on behalf of a covered member reach or exceed one  
47 hundred thousand dollars in a given calendar year, no further claims  
48 paid on behalf of such member in that calendar year shall be eligible  
49 for reimbursement.

50 (f) Each health maintenance organization, corporation or insurer shall  
51 submit a request for reimbursement from each of the stop loss funds on  
52 forms prescribed by the superintendent. Each of the requests for  
53 reimbursement shall be submitted no later than April first following the  
54 end of the calendar year for which the reimbursement requests are being  
55 made. The superintendent may require health maintenance organizations,  
56 corporations or insurers to submit such claims data in connection with

1 the reimbursement requests as he OR SHE deems necessary to enable him OR  
2 HER to distribute monies and oversee the operation of the small employer  
3 and qualifying individual stop loss funds AND THE SMALL GROUP STOP LOSS  
4 FUND ESTABLISHED PURSUANT TO SUBSECTION (D) OF SECTION THREE THOUSAND  
5 TWO HUNDRED THIRTY-THREE OF THIS CHAPTER. The superintendent may  
6 require that such data be submitted on a per member, aggregate and/or  
7 categorical basis. Data shall be reported separately for qualifying  
8 group health insurance contracts [and], qualifying individual health  
9 insurance contracts issued pursuant to section four thousand three  
10 hundred twenty-six of this article, AND SMALL GROUP CONTRACTS OR POLI-  
11 CIES ISSUED PURSUANT TO SECTION THREE THOUSAND TWO HUNDRED THIRTY-ONE OF  
12 THIS CHAPTER AND SECTION FOUR THOUSAND THREE HUNDRED SEVENTEEN OF THIS  
13 ARTICLE.

14 (h) Upon the request of the superintendent, each health maintenance  
15 organization shall be required to furnish such data as the superinten-  
16 dent deems necessary to oversee the operation of the small employer and  
17 qualifying individual stop loss funds AND THE SMALL GROUP STOP LOSS FUND  
18 ESTABLISHED PURSUANT TO SUBSECTION (D) OF SECTION THREE THOUSAND TWO  
19 HUNDRED THIRTY-THREE OF THIS CHAPTER. Such data shall be furnished in a  
20 form prescribed by the superintendent. Each health maintenance organiza-  
21 tion, corporation or insurer shall provide the superintendent with  
22 monthly reports of the total enrollment under the qualifying group  
23 health insurance contracts and the qualifying individual health insur-  
24 ance contracts issued pursuant to section four thousand three hundred  
25 twenty-six of this article. The reports shall be in a form prescribed by  
26 the superintendent.

27 (i) The superintendent shall separately estimate the per member annual  
28 cost of total claims reimbursement from each OF THE THREE stop loss  
29 [fund for qualifying individual health insurance contracts and for qual-  
30 ifying group health insurance contracts] FUNDS based upon available data  
31 and appropriate actuarial assumptions. Upon request, each health mainte-  
32 nance organization, corporation or insurer shall furnish to the super-  
33 intendent claims experience data for use in such estimations.

34 (q) The superintendent may obtain the services of an organization to  
35 administer the stop loss funds established by this section AND THE SMALL  
36 GROUP STOP LOSS FUND ESTABLISHED PURSUANT TO SUBSECTION (D) OF SECTION  
37 THREE THOUSAND TWO HUNDRED THIRTY-THREE OF THIS CHAPTER. If the super-  
38 intendent deems it appropriate, he or she may utilize a separate organ-  
39 ization for administration of the small employer stop loss fund [and],  
40 the qualifying individual stop loss fund, AND THE SMALL GROUP STOP LOSS  
41 FUND ESTABLISHED PURSUANT TO SUBSECTION (D) OF SECTION THREE THOUSAND  
42 TWO HUNDRED THIRTY-THREE OF THIS CHAPTER. The superintendent shall  
43 establish guidelines for the submission of proposals by organizations  
44 for the purposes of administering the funds. The superintendent shall  
45 make a determination whether to approve, disapprove or recommend modifi-  
46 cation to the proposal of an applicant to administer the funds. An  
47 organization approved to administer the funds shall submit reports to  
48 the superintendent in such form and at times as may be required by the  
49 superintendent in order to facilitate evaluation and ensure orderly  
50 operation of the funds, including, but not limited to, an annual report  
51 of the affairs and operations of the fund, such report to be delivered  
52 to the superintendent and to the chairs of the senate finance committee  
53 and the assembly ways and means committee. An organization approved to  
54 administer the funds shall maintain records in a form prescribed by the  
55 superintendent and which shall be available for inspection by or at the  
56 request of the superintendent. The superintendent shall determine the

1 amount of compensation to be allocated to an approved organization as  
2 payment for fund administration. Compensation shall be payable from the  
3 stop loss coverage funds. An organization approved to administer the  
4 funds may be removed by the superintendent and must cooperate in the  
5 orderly transition of services to another approved organization or to  
6 the superintendent.

7 (r) If the superintendent deems it appropriate for the proper adminis-  
8 tration of the small employer stop loss fund [and/or], the qualifying  
9 individual stop loss fund, OR THE SMALL GROUP STOP LOSS FUND ESTABLISHED  
10 PURSUANT TO SUBSECTION (D) OF SECTION THREE THOUSAND TWO HUNDRED THIR-  
11 TY-THREE OF THIS CHAPTER, the administrator of the fund, on behalf of  
12 and with the prior approval of the superintendent, shall be authorized  
13 to purchase stop loss insurance and/or reinsurance from an insurance  
14 company licensed to write such type of insurance in this state. Such  
15 stop loss insurance and/or reinsurance may be purchased to the extent of  
16 funds available therefor within such funds which are available for  
17 purposes of the stop loss funds established by this section.

18 S 8. This act shall take effect immediately; provided that sections  
19 one and two of this act shall take effect on January 1, 2012; and  
20 provided further that the superintendent of insurance is authorized and  
21 directed to promulgate rules and regulations to implement the provisions  
22 of this act, which rules and regulations must be adopted and filed with  
23 the secretary of state by October 1, 2011. This act shall apply to all  
24 policies and contracts of health insurance issued, renewed, modified,  
25 altered or amended on or after January 1, 2012.