

# STOP LOSS INSURANCE AND HIPAA PRIVACY

## HM STOP LOSS

### HM Insurance Group's position is that HIPAA Privacy laws do not apply to Stop Loss carriers.

This stance is based on several commentaries from the U.S. Department of Health and Human Services (HHS), which indicate that a Stop Loss insurer does not meet the statutory definition of a "Health Plan," and, therefore, cannot itself be a "Covered Entity" under HIPAA Privacy requirements.

Moreover, a December 2002 guidance issued by the Office of Civil Rights indicated that a Business Associate Agreement (BAA) is not required when a group health plan purchases a Health Plan product or reinsurance from insurer. In other words, a reinsurer or Stop Loss carrier does not become a Business Associate of a Health Plan simply by selling a reinsurance or a Stop Loss policy to a Health Plan and paying claims under such reinsurance or Stop Loss policy. Further, Stop Loss policies are issued to the employer rather than the group health plan. Because the employer itself is not a "Covered Entity" under HIPAA, a Stop Loss insurer is not a "business associate" of the employer and a BAA is not applicable or required under HIPAA.

However, HM is committed to maintaining the integrity and confidentiality of personal information. HM will provide our company's privacy practices, which should address any concerns regarding the use of confidential and personal information. In addition, HM is able to enter into Stop Loss Confidentiality Agreements (SLCA) as necessary. While not a Business Associate Agreement under the terms of HIPAA, an SLCA recognizes the need for privacy in the relationship between the group health plan, the third party administrator and HM regarding the uses and disclosures of protected health information released to HM as the Stop Loss carrier for the purposes of underwriting and claims payment.

To inquire about the Stop Loss Confidentiality Agreement or privacy practices, please contact your HM sales representative.