

Emerging Regulation of Low Deductible Stop Loss

Actuaries Club of the Southwest
Houston, TX
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Agenda

- Definitions
- My Bias
- A Story
- Your Questions

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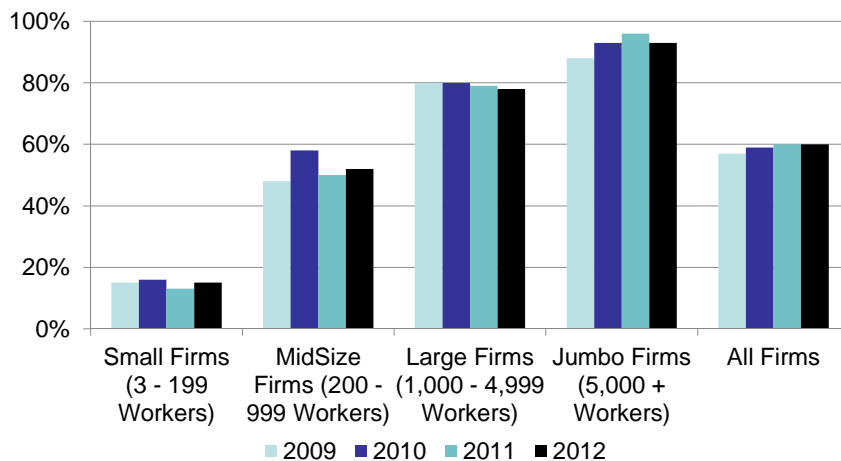
Definitions

- Fully Insured
- Self-Funded or Self-Insured
- Stop Loss Insurance

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Prevalence of Self-Funding



Source: Kaiser Family Foundation/Health Research & Education Trust: 2012 Survey

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My Biases

- My Company
- My Beliefs

Prologue

- Spring 1943
- Executive Order 9328
- National War Labor Board:
 - To the extent that an insurance and pension benefit inuring to an employee is reasonable in amount, such benefit is not considered as salary.

Chapter 1: Colleagues

- 1869: Paul v. Virginia
- 1944: US v. South-East Underwriters Association
- 1945: McCarran-Ferguson Act

Chapter 2: Adversaries

- “Patchwork quilt” of regulation
- 1974: Employee Retirement Income Security Act (ERISA)
 - Preemption clause
 - Savings clause
 - Deemer clause

Chapter 2: Adversaries

- 1995: NAIC Stop Loss Model Act
 - Minimum Specific Deductible: \$20,000
 - Minimum Aggregate Deductible:

Groups 50 and Under	Groups Over 50
Greatest of:	110% Expected Claims
\$4,000 x Number of Members	
120% Expected Claims	
\$20,000	



Chapter 2: Adversaries

- American Medical Security v. Bartlett, III
- 1999: NAIC Stop Loss Model Act amended
 - Nothing in this act shall be construed as imposing any requirement or duty on any person other than an insurer or as treating any stop loss policy as a direct policy of health insurance.



Chapter 2: Adversaries

- Only 3 states have enacted 1999 Model Act
- Another 18 have regulated stop loss in some way
 - Specific minimums vary from \$10,000 - \$25,000
 - Aggregate minimums usually do not deviate by employer size and vary from 110% - 125% of expected claims

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Chapter 3: Colleagues Again?

- 2010: Affordable Care Act (ACA)
 - Incidental clauses related to self-funding
 - Essential health benefits
 - DOL Annual Study
 - DHHS One-Time Study

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Chapter 3: Colleagues Again?

- DHHS Study
 - Compare characteristics of employers, health plan benefits, financial solvency, capital reserve levels, and the risks of insolvency,
 - Determine extent reforms likely to cause adverse selection in the large group market or encourage small and midsize employers to self-insure,
 - Analyze if and why self-insured plans offer less costly coverage, claim denial rates and more

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Chapter 3: Colleagues Again?

- DHHS Study predicts self-insurance will increase notably only if:
 - “comprehensive” stop-loss policies become widely available, and
 - expected cost of self-insuring with stop-loss is comparable to the cost of being fully insured in a market without rating regulations.

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Chapter 3: Colleagues Again?

- 2012 NAIC Proposed Guideline Amendment
 - Minimum Specific Deductible: \$60,000
 - Minimum Aggregate Deductible:

Groups 50 and Under	Groups Over 50
Greatest of:	110% Expected Claims
\$15,000 x Number of Members	
130% Expected Claims	
\$60,000	

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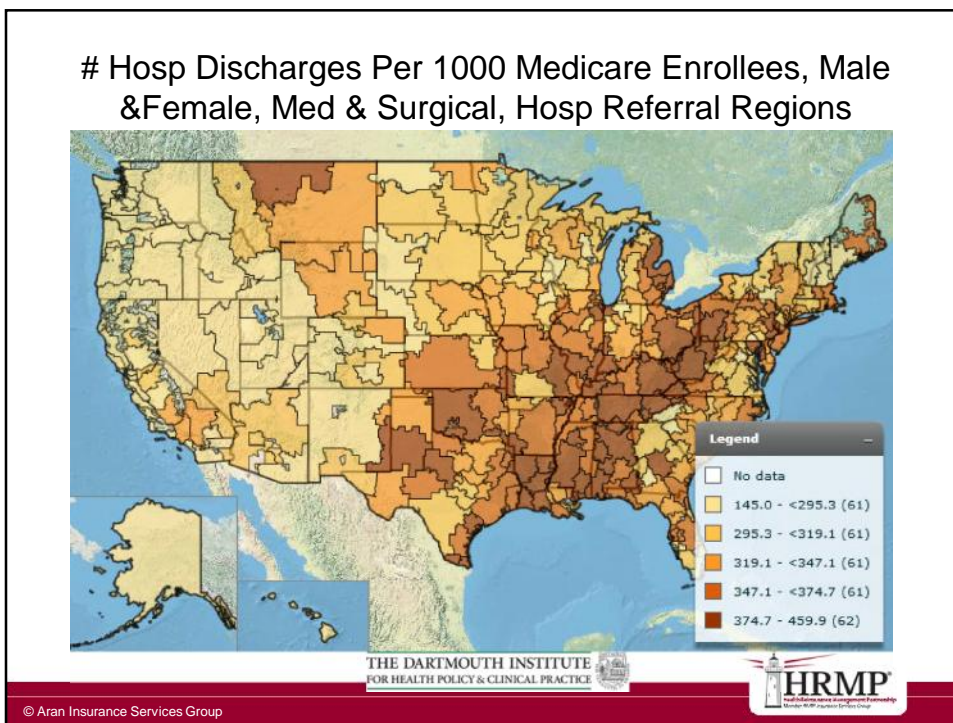
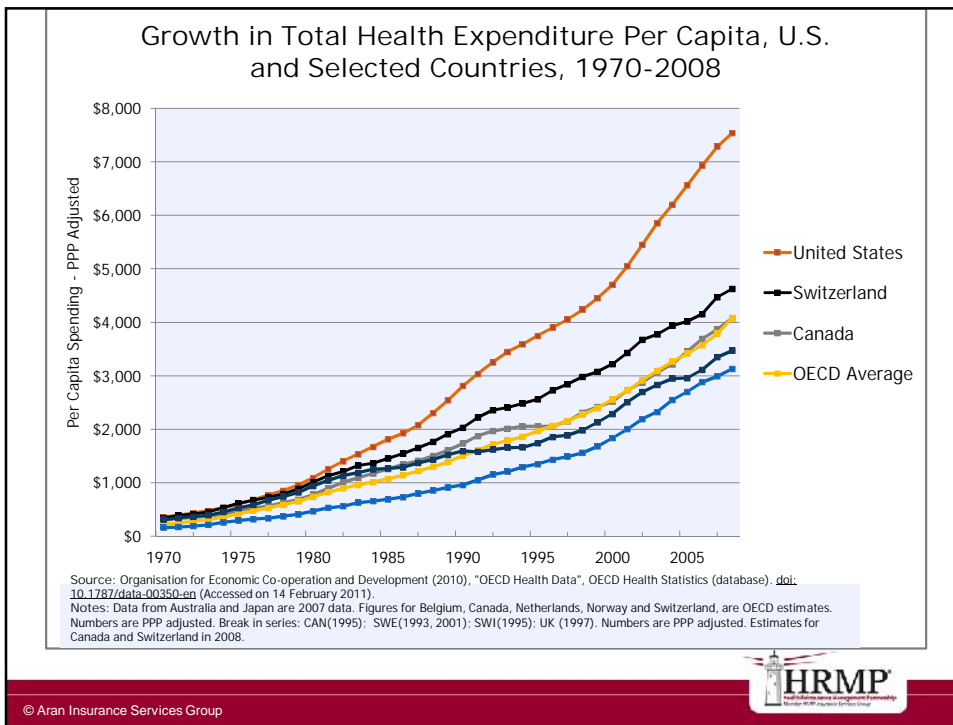


Epilogue – Our Broken Health System

- Uninsured: 48.6 Million, 15.7%
 - Most: Texas – 23.8%
 - Least: Massachusetts – 3.4%
- It's the cost, stupid
- Variations in Medical Practice

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QUESTIONS