# Considerations Regarding Long-Term Care Buy-Out Options

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# Disclaimer

This presentation is provided in response to the NAIC's request for industry input with respect to considerations impacting a buy-out option as a potential mitigation measure offered to policyholders facing a rate increase on their long-term care (LTC) policy.

This presentation should not be interpreted as an advocacy piece, either for or against buy-out options, but rather as an informational and issue identification resource to facilitate further discussions on this topic.

This presentation does not reflect the opinions of individual companies and is not meant to provide any conclusions regarding whether a buy-out option should be offered to policyholders.

# Guiding Principles

- No policyholder or carrier should be required to modify a contract it has entered into.
- Any offer made should consider the potential impact on remaining policyholders.
- Any offer should ensure there is no unfair discrimination among policyholders.

# Buy-Out Considerations

# General Considerations

The following issues should be addressed when considering whether to offer a buy-out option to LTC policyholders:

- the potential impact on policyholders due to anti-selection and adverse morbidity;
- tax considerations, including appropriate tax disclosures and reporting obligations;
- legal considerations; and
- the design of the offer.

# Anti-Selection and Morbidity Risk Considerations

Examples of Variations in Morbidity and Anti-Selection Risk:

- the age of the block,
- the issue and attained age of the policyholders within the block,
- the number and amount of any previous rate actions on the block,
- the level of benefits provided under the policy,
- the design of the offer, and
- the expected utilization by policyholders.

# Tax Considerations

- Maintaining Tax-Qualified Status
  - Grandfathered Tax-Qualified Policies Under HIPAA
  - Tax-Qualified Policies Issued On and After January 1, 1997
- Income Tax Treatment and Tax Reporting Obligations

# Legal Considerations

- Buy-out options should not be unfairly discriminatory.
- In some cases, must consider how a buy-out option is distinguished from a return of premium option that may have been offered initially.
- Consider risk associated with policyholder accepting a buy-out and later becoming chronically ill.
- Consider risk associated with remaining policyholders claiming that company is allowing healthy insureds to leave and disadvantaging those that remain.

# General Design Considerations

- Extra-contractual vs. Endorsement
- The basis of any buy-out option (e.g. a return of premium, a percentage of statutory reserves)
- Variation in reserves held by carriers (e.g. asset adequacy reserves, active life reserves based on varying morbidity tables)
- Characteristics of the block (e.g. have policyholders faced multiple rate increases and reduced coverage?)

# Summary

Industry is committed to providing consumers with meaningful options when faced with a premium increase.

Not a one-size-fits-all solution.  How various issues are addressed and their impact on policyholders will vary by carrier and by block of business within a specific carrier.

Any decision to offer a buy-out option, along with the design of the option, should be made at the carrier level and include discussions with state regulators.  Carriers should not be required to offer a buy-out option or offer a particular buy-out design.