Attachment One

Commissioner Jessica Altman
Chairman, NAIC LTCI Reduced Benefit Options (EX) Subgroup
Pennsylvania Insurance Department

August 3, 2020

Dear Commissioner Altman,

The American Council of Life Insurers[1] (ACLI) and the American Association of Health Insurance Plans[2] (AHIP) support the work of the NAIC LTC (E) Task Force to achieve its charge of developing a consistent national approach for reviewing long-term care (LTC) rates and identifying options for consumers to modify benefits when faced with a premium increase on their LTC policy.

We appreciate the opportunity to comment on the draft document requesting stakeholder input on issues relating to Reduced Benefit Options (RBOs), exposed by the NAIC LTC (EX) Task Force on July 2, 2020. The information obtained in response to the exposure will help establish a framework to provide guidance in evaluating RBO offers. ACLI/AHIP support providing consumers with fair, equitable and meaningful choices to make modifications to the benefits provided under their LTC policy to help offset a rate increase.

EXECUTIVE SUMMARY

While data supports that an overwhelming majority of LTC policyholders maintain their coverage, even in the face of a substantial increase, industry is committed to working with state regulators to consider options and solutions that are fair and equitable for consumers. ACLI/AHIP support the establishment of consistent high-level principles to guide regulators in understanding the characteristics associated with a particular block of business and how these characteristics impact the choices provided to consumers.

To support this goal, any RBO offer should align with the following overarching 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 made should ensure there is no unfair discrimination among policyholders.

Providing fair and meaningful options to consumers starts with considering all aspects of LTC policies. Not all LTC policies are the same. Products vary by carrier and by block of business within a carrier. Key differences underlying the products offered to LTC consumers include:

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[1] The American Council of Life Insurers advocates on behalf of 280 member companies dedicated to providing products and services that promote consumers' financial and retirement security. Ninety million American families depend on our members for life insurance, annuities, retirement plans, long-term care (LTC) insurance, disability income insurance, reinsurance, dental, vision, and other supplemental benefits. ACLI represents member companies in state, federal and international forums for public policy that supports the industry marketplace and the families that rely on life insurers' products for peace of mind. ACLI members represent 95 percent of industry assets in the United States.

[2] AHIP is the national association whose members provide coverage for health care and related services to hundreds of millions of Americans every day. Through these offerings, we improve and protect the health and financial security of consumers, families, businesses, communities and the nation. We are committed to market-based solutions and public-private partnerships that improve affordability, value, access, and well-being for consumers.

- Mix of business (e.g. average issue age and attained age of policyholders),
- Target markets (e.g. financial position of the policyholders, individual/group/association),
- Distribution of policies with respect to benefit levels and features (e.g. benefit period, daily benefit, inflation protection, elimination period),
- Age of the block,
- Benefit payment methodologies (e.g. reimbursement or indemnity),
- Types of service provided under the policy (nursing home, home health, assisted living facilities),
- Additional features offered (e.g. waiver of premium, restoration of benefits), and
- State laws such as those associated with Partnership programs.

These variations in LTC insurance products were designed to provide policyholders flexibility to choose the product that best fits their personal situation. At the time of purchase, policyholders make different decisions by balancing their financial situation, the type of care they desire and the risks they might face. At the time of a rate increase, policyholders must evaluate how their current goals align with, or have changed from, their goals at the time of purchase. A policyholder's decision to accept an RBO might not be based on affordability but on changes in their personal situation.

As a result, there is not a one-size-fits-all RBO. While one RBO might work for some policyholders, it will not work for all. Carriers need flexibility to determine what options make the most sense for their blocks of business and their policyholders.

Comments on the specific principles and issues contained in the exposure are provided below. ACLI/AHIP encourages an opportunity to discuss these issues with regulators and other interested parties.

1. Relating to fairness and equity to policyholders electing a benefit reduction option.

Are all policyholders facing a rate increase being offered an RBO?

Most policyholders are provided options to reduce coverage to offset a rate increase. There are situations where an RBOs might not be offered to a policyholder. These situations include, but are not limited to, the following:

- A policyholder currently at the lowest level(s) of benefit available under the policy would not be eligible for an RBO,
- Some states have specific requirements with respect to benefit levels such as a minimum daily benefit or a maximum elimination period, and the policyholder might already be at this level, or
- RBOs might not be offered to policyholders currently on claim.

Not all options will apply to all policyholders and providing too many options could lead to policyholder confusion. The specific RBOs offered to policyholders will vary by carrier and potentially by block of business within a specific carrier. Carriers know their LTC products best and should strongly encourage policyholders to contact the carrier to discuss specific options that are available to them given the policyholder's personal situation and their current benefit levels.

Do the RBOs provide reasonable value?

ACLI/AHIP support the ability for policyholders to partially or fully offset a rate increase through a reduction in benefits that reflects a reasonable relationship to a reduction in premium; however, the reasonableness of premiums in relation to benefits can take many forms. As a result, a singular measure of reasonableness should not be mandated.

At the time of pricing, premiums must be reasonable in relation to benefits provided. However, equivalence of value for benefits relative to premium across all cells is not a requirement or a fundamental actuarial principle. Over time, and as experience emerges and assumptions are updated, there will be changes to the relative view of reasonableness of value for benefits relative to premium across cells. Maintenance of the original relative differential across cells might not be an objective for a carrier as it seeks rate increases and introduces new benefit reduction options.

Generally, RBOs available at the time of a rate increase are based on the benefit options previously priced for and approved. In this situation, the policyholder reducing their benefits pays the same premium that other policyholders pay for the same level of benefits, based on their issue age. Existing benefit options that have been approved are deemed to provide a reasonable value.

Companies can, however, decide to develop additional benefit options for consumers. For example, a company that initially priced for a lifetime and a five-year benefit period might subsequently decide to provide the policyholder the option of moving to a three-year benefit period to help offset a rate increase. In these situations, the pricing for the new benefit option must be reasonable in relation to the pricing for the existing benefits.

Fairness and equity can be best achieved by carriers encouraging policyholders to base decisions on the appropriateness of the option to their individual situation. Carriers should remind policyholders to consider consulting with family members or a trusted advisor during the decision-making process. In addition, policyholders are strongly encouraged to contact the carrier to understand the range of options that are available to them.

2. Ensuring fairness and equity for policyholders that choose to accept rate increases and continue LTCI coverage at their current benefit level:

To what extent could anti-selection take place, placing the financial stability of the remaining block of business at further risk?

The degree that anti-selection, if any, occurs depends on various factors including the mix of business, the attained age of the policyholders, the magnitude of the rate increase and the policyholder's current benefit level. The anti-selection risk associated with RBOs, including any newly developed options offered by the company, should be addressed by the actuary in the rate filing and discussed with the regulator. Potential anti-selection may limit the number and type of RBOs offered to the policyholder by the company.

3. Related to clarity of communication with policyholders eligible for an RBO:

What are recommendations for ensuring policyholders have maximized opportunity to make decisions in their best interest?

Opportunities for policyholders to make decisions that are in their best interest are maximized through clear, meaningful, and transparent communications regarding available options. Principles supporting policyholder communications include the following elements:

Basic Information Regarding the Rate Increase

- Communications should encourage the policyholder to contact the company to discuss specific options that are available to them based on their personal situation.
- Communications to the consumer should clearly state:

- The current premium and the amount of the increase
- The effective date of increase
- Additional information regarding future scheduled increases, if any.

Mitigation options

- Include information on at least one mitigation option; however, if a reduction in inflation is presented as an option, include information about the impact on the policyholder's current daily benefit
- Include information on how to elect the option and when any election period would expire
- Provide direction/contact information as to where the individual may seek information on additional options, if available
- Include reference to the availability of counseling, including State Health Insurance Assistance Program counseling.
- Disclose that selecting the option may impact Partnership status and that the policyholder should understand the impact of any benefit changes to Partnership status.
- Explain what the loss of Partnership status means to the policyholder, including loss of Medicaid asset protection
- Provide a statement that each option should be evaluated by the policyholder in light of his or her individual situation

Reminder that premium rates can increase in the future

- Include a reminder that the policy is guaranteed renewable, explain what that means and indicate that premiums can increase in the future

Information on Contingent Benefit upon Lapse (CBL), if applicable

- Reference to CBL should only be included if applicable to the individual
- Describe CBL coverage and the period it is available
- Explain that triggering CBL will result in a paid-up policy
- Disclose that CBL results in significant reduction in policy benefits and should be considered carefully

Should regulators, in some cases, encourage a company to offer fewer options to reduce the complication in decisions policyholders will face?

In general, each company should be permitted to outline as many options as they feel are appropriate for their policyholders. Materials must clearly communicate the options being offered. Any concern regarding the number of options offered should be discussed by the regulator and the carrier during the filing process to understand the rationale underlying the carrier's decision. Too many options can cause consumer confusion with respect to the decision-making process (e.g. multiple inflation options make it difficult to know which one will work best for the customer). To provide meaningful options and mitigate any associated policyholder confusion, notification letters should clearly communicate that other options may be explored by contacting the carrier directly.

4. Related to consideration of encouragement or requirement for a company to offer certain RBOs:

Evaluate legal constraints, impact on remaining policyholders and company finances, and impact on Medicaid budgets if regulators are driving reduced LTCI benefits.

- The type of options available to a consumer and how the options are presented will vary by company.

- A policyholder facing a rate increase could elect to reduce the benefits under their LTC policy. State Medicaid budgets could be impacted to the extent that the policyholder becomes eligible for and starts receiving benefits under their policy and continues to need care after the benefits under their LTC policy are exhausted. In some situations, reduced LTC insurance benefit levels could be another factor that might influence any potential impact. The broader issue of potential impact, if any, of RBOs on state Medicaid budgets is a complex question that needs further analysis.
- Depending on the facts and circumstances of an RBO, there may be legal and financial factors to be considered.

5. Related to exploration of innovation, particularly where an outcome of improved health and lower claim costs are possible:

Identify pros and cons of rate increases being tied into insurers offering, e.g., hand railings for fall prevention in high-risk homes.

ACLI/AHIP support innovative options and actions that encourage policyholders to live a long, independent, and healthy life. Many innovative concepts aimed at enhancing care options for policyholders and providing access to benefits will likely require legislation or regulatory guidance at the state and/or federal level to confirm and allow the payment of LTC incidental benefits from LTC policies. These options include those intended to support healthy, independent living and aging in place, prior to satisfying the current eligibility requirements of a severe cognitive impairment or substantial assistance with the requisite activities of daily living.

Innovative options should not cause the policy to forfeit its tax qualified status. It is important to remember that long-term success rates of these innovative options are unknown. Time will be needed to determine whether the results will have any material impact. For legacy blocks of LTC policies, these types of changes would require an amendment or endorsement of the policy. However, we anticipate that the most material impact will be on new business rather than legacy blocks.

WIDELY ESTABLISHED RBOs IN LIEU OF RATE INCREASES

a. Reduce inflation protection going forward, while preserving accumulated inflation protection
b. Reduce Daily Benefit
c. Decrease Benefit Period/Maximum Benefit Pool
d. Increase Elimination Period
e. Contingent Nonforfeiture
   i. Claim amount can be sum of past premiums paid
   ii. Only receive that benefit if the policyholder qualifies for a claim

ACLI/AHIP support providing these categories of RBOs to policyholders if required by statute or regulation at the time the policy was sold, or if a carrier chooses to offer such RBOs. However, as mentioned previously, the actual benefit options offered will vary by carrier and by block of business within a carrier.

LESS COMMON RBOs FOR POTENTIAL DISCUSSION

a. Cash buyout
b. Co-pay percentage on benefits

ACLI/AHIP support the exploration of innovative RBO options, including buy-out options or the addition of applying a co-pay percentage to policy benefits.

How issues associated with any innovative option are addressed and their impact on policyholders will vary by carrier and by block of business within a carrier. As a result, a decision to offer any particular 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 particular innovative option or type of benefit design.

Specific to buy-out options, carriers should address the following issues when considering whether to offer this 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.

Industry supports and encourages an opportunity to discuss these issues with regulators and other interested parties.

CONCLUSION

Thank you for the opportunity to provide these comments. ACLI/AHIP welcomes the opportunity to discuss our comments with you in the future, and we would also welcome the opportunity to contribute to additional discussion regarding the comments raised in our letter.

Sincerely,

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Senior Actuary, ACLI

Ray Nelson
AHIP Consulting Actuary