NAIC National Association of Insurance Commissioners

Date: 8/10/20

Conference Call

LTCI REDUCED BENEFIT OPTIONS (EX) SUBGROUP

Monday, August 24, 2020
3:00 p.m. ET / 2:00 p.m. CT / 1:00 p.m. MT / 12:00 p.m. PT

ROLL CALL

Jessica K. Altman, Chair	Pennsylvania	Steve Kelley	Minnesota
Lori K. Wing-Heier	Alaska	Bruce R. Ramge	Nebraska
Alan McClain	Arkansas	Larry D. Deiter	South Dakota
Trinidad Navarro	Delaware	Hodgen Mainda	Tennessee
Karima M. Woods	District of Columbia	Todd E. Kiser	Utah
Robert H. Muriel	Illinois	Michael S. Pieciak	Vermont
Doug Ommen	Iowa	Mike Kreidler	Washington
James J. Donelon	Louisiana	James A. Dodrill	West Virginia
Anita G. Fox	Michigan		

NAIC Support Staff: Eric King

AGENDA

1. Discuss Comments on RBO Principle Document
   a. American Council of Life Insurers (ACLI) and America's Health Insurance Plans (AHIP) —*Jan Graeber (ACLI) and Ray Nelson (AHIP)* — Attachment One
   b. California Health Advocates (CHA)—*Bonnie Burns (CHA)* — Attachments Two and Three
   c. Center for Economic Justice (CEJ)— *Birny Birnbaum (CEJ)* — Attachment Four

2. Discuss Any Other Matters Brought Before the Task Force—*Commissioner Jessica Altman (PA)*

3. Adjournment

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:

[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,

Jan M. Graeber
Senior Actuary, ACLI

Ray Nelson
AHIP Consulting Actuary

CALIFORNIA HEALTH ADVOCATES
Medicare: Policy, Advocacy and Education

July 27, 2020

Comments: REDUCED BENEFIT OPTIONS ASSOCIATED WITH LONG-TERM CARE INSURANCE (LTCI) RATE INCREASES

Commissioner Altman, Chair
NAIC Workstream #3
Long-Term Care Insurance (EX) Task Force

California Health Advocates Comments on Workgroup principals

We appreciate the opportunity to comment on this important topic and appreciate the principals laid out for the work stream. We view modification of existing long term care insurance contracts to be a very important topic with serious implications for policyholders. It is critical that policyholders have a clear understanding of any options they are offered and the long term consequences of any changes they might make to their existing benefits or contracts.

Our experience with a variety of options insurers have offered as part of a premium increase informs our comments on this topic. Many of these notices were multi-page notices informing policyholders of a premium increase that also offered complex options to reduce the effect of those increases.

- Some insurers offered a limited number of choices, while others offered a wide range of options that included a resulting premium for each choice.
- Some insurers offered a few options encouraging policyholders to call for information about others and the resulting reduction in premium
- Some described options in detail, others provide little information.

There are no clear requirements for what options can be offered, how they are described, what information must be included, or how or in what format that information is presented to policyholders. In some instances these notices seemed to be drafted to give one option more prominence than another. Several agents complained to us that these notices were intended to promote lapses, or a shortened benefit period without further premium payments. All of these issues points to a need for a common form and format and instruction on content for these notices.

Our primary concern for policyholders is that long standing coverage be preserved and that the options they select to reduce cost maintain reasonable amounts and duration of coverage. Most policyholders that came to our organization or the local SHIPs were confused about the information they received and worried about losing coverage or making the wrong choice. Some considered just giving up their coverage.

Bonnie Burns, NAIC Consumer Representative
Consultant, California Health Advocates
831- 438-6677 bburns@cahealthadvocates.org

Some clients needed to combine options to achieve a reasonable premium going forward, and leave room to exercise additional options if later premium increases occurred. Having individual help to sort through their options and financial circumstances resulted in retention of meaningful coverage at a price a policyholder was able to pay.

One issue that had to be considered time and again was to ensure that a policyholder didn't reduce their daily benefit amount so low that they had no room for further reduction in the event of subsequent premium increases. Clients had little understanding or appreciation for which benefit option had more importance than another if further premium increases occurred that required additional decisions about coverage.

We are concerned that one reduced benefit option (RBO) in particular may be promoted over other options that might be available. Each one of these options can apply differently to a policyholder depending on their own unique situation. These include their current age, their health conditions and near term need for benefits, their financial condition, their current marital status, potential caregivers, and their ability to receive benefits at home or their need for institutional care. These are all factors to be considered in making changes to their existing benefits and their ongoing ability to finance those benefits.

In regard to inflation protection in particular, all of the factors cited about apply to decisions about eliminating that benefit, reducing it, or retaining the current benefit. Some insurers have offered to drop it entirely but had no option to reduce it. We think every insurer should offer the option to reduce inflation protection to a lower percentage for those policyholders who could benefit from retention of some amount of inflation protection. In other cases, particularly when a policyholder is of an advanced age it might not make sense to retain any inflation protection and instead rely on the current already inflated amount. In no circumstances should insurers be allowed to claw back current inflated benefits if inflation protection is modified or dropped.

Attached is a document we drafted for the SHIP programs and is in use in the California SHIP (HICAP). In that document we attempt to explain each option we've seen to help SHIP counselors understand the function of each option. We also point out that one or more of these options might have more value to one policyholder than another, depending on their particular financial situation, their age, and how close they might be to using their benefits. Policyholders deserve the right to tailor their coverage to their current situation and they need clear, concise plain language information about each option they are offered.

Thank you for the opportunity to comment on this important work.

Sincerely

Bonnie Burns

Bonnie Burns

Bonnie Burns, NAIC Consumer Representative
Consultant, California Health Advocates
831- 438-6677 bburns@cahealthadvocates.org

CALIFORNIA HEALTH ADVOCATES
Medicare: Policy, Advocacy and Education

Counseling Policyholders on Options to Reduce Premium Increases

The notices policyholders receive about the premium increase may contain a number of options they can exercise to offset some or all of the premium increase. Each option needs to be carefully considered by each policyholder based on their specific needs, their age, the cost of care in their area, and their financial circumstances. Most policyholders, or their families, are likely to need help to determine the value and the impact of one or more of the offered options.

When assisting a policyholder or a family member with decisions about reducing premiums, it's important to consider their age, financial situation, their future care needs, the costs of care they may need in the future, and whether future increases are likely.

<u>For spouses</u> it's important to consider the impact of these options and changes if one spouse will live on a reduced income when the other spouse dies. It's possible that a policyholder might combine two or more of the options offered to them to achieve the greatest premium reduction, but a careful review of each option and its consequences should be made first. One spouse may need to maintain greater coverage than the other because one is older than the other or is in worse health than the other.

<u>For Partnership products</u> it's important to know any minimum benefit requirements to ensure that the daily benefit amount, amount or years of coverage, and any inflation protection are not reduced below the levels required to maintain Partnership asset protection.

Reduce Or Eliminate Their Inflation Protection: A policyholder is offered the option to reduce their inflation protection benefit, or the option to eliminate it entirely, in return for a reduction in the new premium. (An inflation protection benefit increases the policy's daily benefit amount to protect against increases in the cost of care.) While it may make sense at some older ages to reduce or eliminate an inflation protection benefit, it's important to know **if** that reduction or elimination will be applied back to the original daily benefit at the time the policy was purchased. If this is true and a policyholder opts to eliminate the inflation protection benefit, they might lose all the inflation adjustments that increased their daily benefit since they bought the policy. The option to reduce or eliminate inflation protection should only be applied from the current date forward, and any inflated benefits should be retained at the current inflated amount.

Reduce The Daily Benefit Amount: A policyholder is offered the option to reduce the dollar amount of their daily benefit in return for some reduction in the new premium. Careful consideration must be given to the amount of the reduced daily benefit relative to the current cost of care and how choosing that option would reduce the new premium.

It's also important to consider that if they choose to reduce the daily benefit now that if there are premium increases in the future, they may not be able to offset those premium increases by reducing the daily benefit again if that benefit is already much lower than the cost of care.

Reduce The Duration Of Benefits: A policyholder is offered the right to reduce the number of years that the policy will pay benefits. A policyholder with only 2 or 3 years of coverage may not be able to reduce their coverage any further. Reducing the benefit from lifetime coverage to a fixed number of years may substantially reduce the premium for younger policyholders but the reduction may be much less for those who are older. Policyholders will need to weigh the consequences of fewer years of benefits and the total dollar amount of benefits against any reduction in premium that they are offered

Paid-Up Policy: A policyholder may be offered a paid-up policy with no need to make any future premium payments. This option keeps the policy in force, but limits the total dollar amount of benefits that will be paid to the amount of premiums that have already been paid since the policy was purchased. The amount of care that can be provided by the dollar amount of paid premiums that makes up the total paid up benefits should be weighed against the ability of a policyholder to pay the increased premium.

Cash Out: A policyholder is offered a specific dollar amount to cancel their policy. Some of these cash outs may be many thousands of dollars. While the prospect of a large cash payment may be momentarily attractive, the policyholder is giving up all future benefits for long-term care. If a person is eligible for public benefits now, or might be in the future, the receipt of a large cash payment could affect eligibility for those benefits. A policyholder should seek advice from a trusted financial advisor to fully understand all of the consequences of this decision before exercising this option including whether there are any potential tax implications for taking this option.

Policyholders can always contact their company to ask questions about the offered options, and to seek other changes that might be more beneficial. It's important to remember that any offers to reduce premium increases, or to make any other changes to their long term care contracts should always be supported in writing. Any documents sent to policyholders should be retained and attached to their existing policy.

Comments for the Center for Economic Justice

To the Reduced Benefit Option Subgroup of the NAIC LTC (EX) Task Force

August 11, 2020

The Center for Economic Justice CEJ) offers the following comments to the Long Term Care Insurance (EX) Reduced Benefit Option Working Subgroup:

1. Fairness and equity for policyholders in terms of RBOs should be assessed in two major dimensions. The first dimension is actuarial equivalence in terms of the overall rate for the policy. There are no other relevant actuarial issues. The insurer should be financially indifferent to the policyholder's decision to accept or reject any RBO. Such actuarial equivalence ensure equity between policyholders accepting or not accepting a RBO.

2. The second dimension of fairness and equity for policyholders should be consistency of options offered to holders of the same policy type. The choice of RBOs presented should not be at the discretion of the insurer. Fairness and equity require that the offer of RBOs is not unfairly discriminatory.

3. Clarity of communication should be reviewed in broad terms, not just the letter from the insurer offering RBOs. RBOs should be presented in a manner that demonstrates the operation of the RBO. The current method of presenting RBOs – a table summarizing premium charges and benefit changes – is inadequate.

4. To permit or promote innovation, "Reduced-Benefit Option" should be renamed to "Lower Premium Options" followed immediately in communications by "We offer options for you to pay a lower premium. Most (All) of these options require you to accept smaller benefits in exchange for the lower premium. {One/Some of the options is/are a lower premium in exchange for lifestyle changes or alternative treatments.)"

5. Consumer disclosures of RBO options should be consumer-tested and successful formats and methods of presentation should be required. Insurers should be prohibited from utilizing presentation methods that favor one option over another or make a particular option more difficult to understand or choose. Consumers should have access to reliable information from disinterested third parties.

6. Online tools should be available to help a policyholder understand the RBO options. These online tools could be provided on the NAIC website. The tools could help illustrate the operation of various RBOs

7. Consumers who select a RBO option in the face of unaffordable rates should have the option of reinstating the original benefit levels in the event of a future rate decrease.

<u>RBOs should reflect actuarial equivalence in terms of the overall rate for the policy.</u>

In its comment letter ACLI goes on at length about the differences in LTCI products, in LTC insurer marketing strategies and in LTC policyholder motivations culminating in ACLI's demand for LTC RBO flexibility and for policyholders to "contact the carrier to understand the range of options that are available to them."

We completely disagree that LTCI policyholders should be counseled by their LTC insurers about RBOs. The insurers not only have potential conflicts of interest if the RBOs are not equivalent from the insurers' perspective, but the LTC insurers have a pathetic track record of demonstrating they actually understand the products they are selling.

The RBOs should be based on actuarial equivalence of the overall rate for the policy and the RBO alternatives. The actuarial equivalence should not be limited to the expected claims. Stated differently, the expected after-tax return on invested capital should be identical for the new, higher rate and any of the RBOs. This actuarial equivalence accomplishes the following:

- Ensures that the expected benefits in relation to premium remains the same for the policyholder
- Ensures the same profitability for the insurer
- Promotes indifference for the insurer of the selection or rejection of any or all RBOs
- Provides a transparent standard for regulatory review through consistent ratemaking assumptions
- Ensures that consumers get the same benefit of the claims "margin" in the RBO as insurers have used in the rate development.
- Ensures fairness and equity between policyholders accepting or not accepting the RBO regardless of the RBO selected or not selected.

References to "anti-selection" or initial pricing strategies "across cells" are irrelevant and should not be a consideration. Regarding anti-selection, it is unclear how <u>reduced</u> benefit options will lead to anti-selection. As ACLI points out, the vast majority of policyholders keep current benefit levels even in the face of massive rate increases. Offering RBOs cannot lead to a situation of a policyholder leveraging some information unknown to the insurer in order to obtain additional coverage. Further, if the RBOs adhere to actuarial equivalence in the overall rate for the coverage offered, then insurers should be indifferent to the selection or non-selection of any RBO by a policyholder.

Similarly, the fact that insurers didn't initially plan for the same profitability across "cells," is irrelevant. The relevant issues are the current approved rate and the actuarial equivalence of the rates for the RBOs.

The ACLI comments, based on an alleged multitude of initial company decisions and consumers' decision-making considerations coupled with a demand for "flexibility," if adopted by the NAIC, will clearly render any regulatory guidance for RBOs toothless and subject to manipulation based on the various considerations set out in the ACLI comment letter. The subgroup should reject these false premises and unaccountable outcomes and establish simple and transparent guidelines for offer and presentation of RBOs

The choice of RBOs presented should not be at the discretion of the insurer.

ACLI argues that insurers are somehow in the best position to offer advice to policyholders because of the many different policyholder goals and circumstances. As a result, ACLI argues, "each company should be permitted to outline as many options as they feel are appropriate for their policyholders."

This line of reasoning and conclusion are unpersuasive and illogical. First, insurers are under no obligation to act in the policyholder's best interest and, in fact, the ACLI framework would create a massive conflict of interest if the insurer were free to outline "as many options as they feel appropriate." Second, this is a recipe for unfair discrimination based on arbitrary "differences" among consumers facing the same rate increase for the same product. Third, there is no basis for the claim that the LTC insurer will somehow divine the relevant information from the consumer necessary to make the "appropriate" option available.

As ACLI notes, there are a small number of commonly used RBOs offered by insurers. The development of RBO guidance should be designed for the benefit and protection of the vast majority of policyholders. The guidance should not, as recommended by ACLI, be designed for the exceptional case such that the consumer protections for the vast majority are undermined.

Presentation of RBOs

The common current method of presenting RBOs to consumers is a table with the current policy benefits in the first column and 2 or 3 RBOs present in columns to the right. The rows of the table are key policy and benefit features for each option and the premium for each option. An example is shown below.

At best, it is difficult for a policyholder to understand the operation of the various RBOs and illustration of how the options will work is needed, discussed further below. It is unrealistic for the average consumer to be able to analyze the trade-off between say, a $750 reduction in annual premium versus a $35 reduction in maximum daily benefit without some additional tools. In addition, a consistent set of options and access to online tools are needed for transparency and accountability.

<u>Current and proposed RBO disclosures should be consumer-tested.</u>

As a general approach, the subgroup should reference and utilize the NAIC *Best Practices in Consumer Information and Disclosure* for evaluating current RBO presentations and developing standards for RBOs and RBO presentations. Consumer testing is needed not just for the presentation of the RBOs, but for the RBOs themselves. If a particular type of RBO is incomprehensible to policyholders regardless of the amount of explanation or if the RBO is susceptible to miscomprehension or misunderstanding, such outcomes should be a relevant factor is determining whether a particular type of RBO is permitted.

<u>Online tools should be available to help a policyholder understand the RBO options.</u>

As noted above, at best, RBOs will be very difficult for policyholders to understand and assess. The assessment of value of the reduced premium versus the value of the reduced benefits is particularly difficult and should be aided by illustrations provided by a disinterested third party. Such tools to illustrate and explain RBOs could be offered on the NAIC web site. This would require some, but not complete, standardization of RBOs.

Another virtue of online tools is the ability to establish a decision-tree like structure that starts with high level questions to guide the consumer to the relevant information. For example, the online tool could ask if the LTC policy is tax-qualified or not or part of a state Partnership program and, depending on the answers, guide the policyholder to information relevant for their situation.

<u>Consumers who select a RBO option in the face of unaffordable rates should have the option of reinstating the original benefit levels in the event of a future rate decrease.</u>

Much of the NAIC action regarding LTCI has been one-sided – what to do in the event of inadequate rates and how to prevent inadequate rates. For example, the changes to the LTC model regulation regarding rates permit insurers to pad the rates with a "margin" above expected claims while permitting insurers to file for rate increases as needed. There is no provision to require filings for rate reduction if expected claims are less than expected or if the "margin" is not needed.

Similarly, the current discussion about RBOs is framed in terms of reduced-benefit options in the event of a rate increase. But, in the event of unexpected and significant declines in mortality – as a result of a pandemic, for example – or improvements in treatment that reduce the need for the most expensive types of LTCI benefit that result in indicated rate decreases, policyholders who have selected a RBO because of higher rates should also have the option of reinstating original benefit levels if rates decrease.

Allowing for Innovation

To permit or promote innovation, “Reduced-Benefit Option” should be renamed to “Lower Premium Options” followed immediately in communications by “We offer options for you to pay a lower premium. Most (All) of these options require you to accept smaller benefits in exchange for the lower premium. {One/Some of the options is/are a lower premium in exchange for lifestyle changes or alternative treatments.)”