

August 1, 2019

The Honorable Richard E. Neal
Chairman
House Ways and Means Committee
1102 Longworth House Office Building
Washington DC 20515

Dear Chairman Neal:

Thank you for your letter of June 3 asking for the NAIC's input on information about the options for developing a new Medicare Supplement (Medigap) or Medigap-like product with front-end long-term services and supports (LTSS) benefits for seniors and people with disabilities who are enrolled in Medicare.

The NAIC is very encouraged the Committee has reached out seeking state regulators' expertise and input. We stand available to assist you and Congress as these important issues are considered.

Your letter was forwarded to the NAIC's Senior Issues Task Force (Task Force) for review and consideration. The Task Force is charged with considering policy issues related to Medigap, long-term care insurance, senior counseling programs and other insurance issues that affect older Americans, among many other responsibilities and duties.

Your letter asked for information on the following factors and considerations:

- Affordability, sustainability, and implications for adverse selection
- Eligibility triggers
- Benefit design
- Participation rates
- Interaction with the existing Medigap options
- Special enrollment periods

The regulators comprising our Task Force discussed these factors and considerations at length by open conference call with a variety of stakeholders, including consumer representatives, industry, other regulators, and other interested parties. The Task Force received many comments and carefully considered multiple options and perspectives. While the Task Force is aware and in agreement with the Committee that a large majority of seniors age 65 and older will need help at some point in their lives with some basic activities, such as bathing and dressing, the Task Force did identify some concerns about possibly expanding LTSS availability through Medigap.

Medigap was developed to fill in the gaps in the Medicare program. The nursing home benefit in Medicare is there to provide short-term or limited coverage while the beneficiary is recuperating from an

occurrence. Although Medicare is covering more home health care and skilled nursing facility services than it used to -- 3% to 5% of Medicare program costs in 1988 and up to 22% in 2011 -- the nature of the coverage could significantly change by adding a LTSS benefit. In addition, approximately 1/3 of Medicare beneficiaries rely on Medigap. If the goal of the Committee is to expand the availability of LTSS, then such a proposal would only impact approximately 1/3 of those seniors with traditional Medicare.

The Committee's inquiry is unclear as to whether LTSS benefits would be added to Medicare, and thus added to all Medigap options, or added to one standalone Medigap policy. It is also unclear the expected LTSS benefit level provided by this initiative, which is an important consideration. These unknowns present obstacles in providing specific guidance and potential financial impact. For instance, comprehensive LTSS coverage may cause plans to be cost prohibitive. However, in general, the following overarching issues will impact the path selected:

Premium Implications

Depending on the type or level of LTSS benefits to be provided and added to Medigap, and the extent of the application of those benefits across all or some plan designs, the Task Force was concerned that, without some way to address or mitigate the additional cost, this proposal could price many Medicare beneficiaries out of the Medigap marketplace. If Medigap is priced out of the consumers' reach, the number of persons delaying or avoiding needed care is likely to rise.

Possible Market Disruption

There is the possibility that carriers may not want to write Medigap policies if they are required to offer LTSS benefits. As the Committee is probably aware, many Medigap carriers currently do not offer LTSS-style benefits in the market today and do not have the expertise to price LTSS benefits. Traditional long-term care insurance's market experience continues to be challenging. Early miscalculations of rate assumptions, coupled with low interest and lapse rates, continues to haunt the long-term care market. Several carriers have since left the market. Some of the companies that have remained have sought significant rate increases. Due to the substantial differences in long-term care versus medical insurance in pricing, reserving, health delivery systems, and claims adjudication, carriers that are ill-equipped to address the additional LTSS benefits may withdraw from the market, thus restricting a currently balanced and competitive Medigap market.

Anti-Selection

If LTSS is not to be a requirement in all Medigap plans, then anti-selection could be an issue. Anti-selection could be more complicated if there is a Special Enrollment Period (SEP) offered to current Medicare beneficiaries with Medigap plans versus just offering this to newly eligible individuals. Another factor the Committee may want to consider is whether companies could be allowed to introduce an age rating for those enrolled during the SEP. If there is not an age rating, then pricing could be difficult. The effect of an optional and/or a mandated benefit on Medigap could also vary depending on the level of benefits covered or defined.

Due to guaranteed issue, Medigap insurers cannot refuse an application and, thus, adverse selection may occur. For instance, since Medigap is available to beneficiaries with certain disabilities, these beneficiaries may start coverage already receiving LTSS. Another factor impacting anti-selection is

whether the federal legislative changes dictate that LTSS benefits be included as a standardized benefit for all plans or just added to one or a few plans.

Pricing and Claim Adjudication

The Committee should note that long-term services and supports claims are more difficult to investigate, manage, and adjudicate than Medigap claims. LTSS, or non-medical claims, involve assistance with daily activities, care delivered through a separate set of providers, and individuals whose conditions may persist even with services and supports. Medigap insurers would be required to add this additional delivery system, as well as LTSS claim services including health assessment, service provider selection, benefit trigger verification, and claim assistance. All costs associated with implementing these aspects would be added to the cost of Medigap plans.

States' Role

The Committee should keep in mind the importance of the states' role in regulating Medigap. While Medigap benefits are standardized, and any LTSS component of the benefit package would also need to be standardized, states establish some standards that reflect the needs and expectations of their populations. Some states have opted to maintain federal Medigap minimum standards while others have expanded those standards, such as the inclusion of guaranteed issue provisions or choosing to implement community rating or issue age (or attained age) rating. The introduction of LTSS benefits could impact states differently due to these varying standards and must be carefully considered.

Clarity

The Committee should be cognizant of the language used to inform and educate consumers. LTSS and long-term care have different meanings and represent different services but to many consumers they are perceived as the same. Ensuring consumers are fully aware of what is included in any new benefits, and what is not included, will be critical to the success of these changes.

Overall Costs

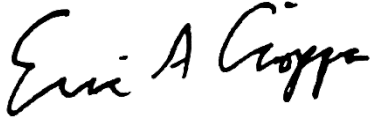
All the issues mentioned impact costs - cost to the beneficiary and cost to the insurer. It is impossible to estimate the actual financial impact without specifics on benefit design and application to Medicare and subsequently, Medigap plans. In aggregate, any increase in benefits will put upward pressure on premiums. The Task Force expressed concern that seniors on fixed incomes may choose to forego Medigap coverage rather than pay the increased costs of a plan with coverage for LTSS.

While many of the comments received by the Task Force included concerns about expanding LTSS availability through Medigap, these same comments also shared the Committee's desire to identify ways to make Americans' long-term care needs more affordable. As the Committee is aware, the NAIC had developed a list of policy options for Congress to consider in improving the ability of consumers to pay for long-term care services. Attached is that document.

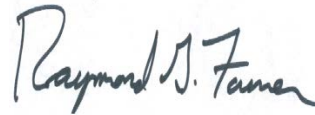
Notwithstanding the concerns and important considerations we think merit further attention, we commend you and the Committee for exploring solutions to this important topic. We hope our comments and observations will help you and your staff as you consider this legislative proposal. We

encourage your committee and Congress to utilize the NAIC as a primary resource for any insurance regulatory questions or proposals.

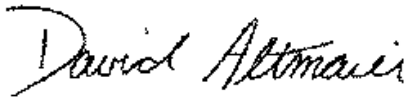
Sincerely,



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Enclosure