Long Term Care Position Paper

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The National Association of Health Underwriters (NAHU), a leading professional trade association for health insurance agents, brokers and consultants, represents more than 100,000 benefit specialists. Our members work on a daily basis to help millions of American individuals and employers purchase, administer and utilize health insurance coverage. Long term care insurance is an important topic; many NAHU members provide products and advice with regards to family LTC planning as an adjunct to retirement and estate protection.

THE LONG TERM CARE SITUATION

The long term care (LTC) system in the United States faces significant challenges as it prepares for an increasingly aging society. The number of people over age 65 is projected to grow to 98 million of the total population by 2060.[1] Thus, many individuals will require long term care services and supports (LTSS) to manage the many health conditions that develop due to aging. While the need for LTSS is not just for the elderly, those ages 65 and older are eight times more likely to need care than those under 65.[2] Furthermore, with life expectancy of men at 86.6 years and women at 88.8 years,[3] it is no surprise that approximately 133 million Americans are living with at least one chronic condition, which can eventually lead to the need for LTC. By 2030, that number is projected to increase to 171 million.[4]

More than 50% of recipients of LTSS in the U.S. partially self-insure their expenses by using savings, depleting retirement assets and/or relying on family caregivers. In fact, 75% of people needing care rely solely on unpaid caregivers. It should also be noted that caregivers die earlier than non caregivers yet also need more LTC themselves because of the mental and physical burden of being a caregiver.[5] After age 65, it is highly likely that a person will need at least one year of care.[6] Due to the high cost of care,[7] many people are pushed into poverty and dependency on Medicaid, yet few Americans are currently covered by LTCi—less than five percent.[8]

Many Americans incorrectly believe that their private health insurance or Medicare will pay LTSS costs. However, the primary burden of providing these services falls on family members. The person needing care and their family then engage in spend-down of savings or other depletion of savings and assets until the person requiring care can meet state-based eligibility criteria for Medicaid. Unless we successfully encourage people who can afford to do so to take personal responsibility for their LTC needs, Medicaid will be hard-pressed to have the funds necessary to care for the truly needy.

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[1] Aging Statistics, ACL (Administration for Community Living), U.S. Dept. of Health and Human Services, www.aoa.gov>aging_statistics.

[2] Derived by Claude Thau using July 2015 population numbers (below age 65 vs. 65+) from www.cia.gov/library/publications/the-world-factbook/geos/us.html#Energy; and a June 2007 estimate of the percentage of LTC recipients under age 65 ("nearly 41%") from Georgetown University Long-Term Care Financing Project. "Long-Term Care Financing Policy Options for the Future," June 2007, as cited at www.ltcfeds.com/start/aboutltc_whatis.html. An update to Georgetown's 42% statistic should cause the ratio stated in the text to increase.

[3] Society of Actuaries, Retirement Plans Experience Committee, June 2015, update of the mortality improvement scale, mp-2015.

[4] "The Growing Crisis of Chronic Disease," www.cdc.gov/nccdphp/publications/AAG/chronic.htm.

[5] "Risk of Death Can Soar When Spouse is Sick." Robert Roy Britt, news.yahoo.com/s/space/2006215/sc_space/riskofdeathcansoarwhenspouseissick.

[6] Kemper, Komisar, Alecxih. Long-Term Care over an Uncertain Future: What Can Current Retirees Expect? Inquiry 42:335-350; winter 2005/2006.

[7] Genworth 2015 Cost of Care Study; April 2015.

[8] Robert Wood Foundation, Policy Snapshot, Health Issue Brief, February 2015.

Potential caregivers also need to be educated about the significant mental and physical burden of being a caregiver. This results in caregivers dying earlier than non caregivers. They also need more LTC themselves.[9]

As policy-makers look for solutions to the ever growing LTC crisis in the U.S., an important consideration and strong justification for everyone to consider purchasing LTCi is that individuals using LTCi benefits at the end of life have lower medical costs. A recent study confirmed this and found that total medical costs were 14% lower. The breakdown of the 14% savings showed pharmacy 13% lower, inpatient admission 35% lower and outpatient visit costs 16% lower. Hospital admissions were eight percent fewer and inpatient days were 10% less.[10]

NAHU is pleased to offer three proposed solutions that, if implemented, will facilitate:

1. Preservation of government safety net programs for people who need them and for future generations.
2. More employers offering LTC education and LTCi as an employee benefit.
3. Increased acceptance of personal responsibility by Americans for their long term care.
4. Additional purchases of LTCi, which will add stability in the LTCi marketplace and generate additional taxes, increasing state and federal revenues.

An important part of these proposed solutions will be the establishment of public and private educational programs to encourage and assist Americans to fully understand the:

1. High probability that LTSS will be needed.
2. Financial, physical and emotional burden on loved ones to provide LTSS.
3. Limited coverage available under Medicare.
4. Complex rules and regulations associated with receiving benefits under Medicaid.
5. Need to plan adequately for their own LTC needs.
6. Importance of considering purchase of LTCi as a part of overall retirement strategy.

The results will mitigate the lack of financial preparedness among far too many U.S. individuals and their families.

FIRST PROPOSED SOLUTION: MEDICAID REFORMS

Medicaid was created in 1965, as Title XIX of the Social Security Act, to provide healthcare coverage for the neediest. Most Americans share in the belief that Medicaid should provide a basic safety net for current and future Americans in need. Unfortunately, Medicaid is already over-extended and too often provides LTSS coverage to people who are not destitute.

The rapidly growing need for LTSS will exacerbate Medicaid's ability to provide needed care since its funding is not infinite. Thus, every effort should be made to find ways to preserve Medicaid and ensure its financial solvency. If policies and programs were available to incentivize more consumers to purchase LTCi or use reverse mortgages, Medicaid could provide better care to the neediest rather than being a refuge for those who can afford to cover their LTSS needs. Changes made to Title XIX in 1993 require states to recoup costs of Medicaid LTC-related services from the estates of deceased recipients (some deferrals exist to protect family members). However, many states have been lax in doing so,

[9] https://www.caregiver.org/women-and-caregiving-facts-and-figures.
[10] "Long-Term Care Benefits May Reduce End of Life Medical Care Costs"; S. Holland, MD, S.R. Evered, PhD, B. A. Carter, PhD, POPULATION HEALTH MANAGEMENT; Volume 0, Number 0, 2014.

discouraging people from accepting personal responsibility. Far too many people believe that the government will take care of them for free.

The Long Term Care Partnership program, implemented by 43 states, is a federal and state program to preserve Medicaid. It encourages the purchase of Partnership LTCi policies, thereby greatly reducing the risk that those people will need Medicaid funding for LTSS. Statistics demonstrate extremely few people who own LTC Partnership policies end up relying on Medicaid. The most recent reports from each of the four original LTC Partnership Program states advise that only 7.2% of claimants who owned Partnership-approved policies have accessed Medicaid. The California Department of Health Services calculated that, as of the first quarter of 2013, the LTC Partnership plan had saved them $46 million. New York state officials reported a savings to their Medicaid program of $34 million through 2014.[11]

In contrast to Medicaid, when individuals purchase LTCi that meets state LTC Partnership policy requirements, they can receive LTSS in their place of choice (at home, assisted living facility or nursing home), paying for it with their LTCi and possibly some of their income and assets. Rather than immediately beginning depletion of savings and assets to become eligible for public assistance, they know that if their income and insurance benefits are insufficient, they spend-down assets only until their remaining countable assets match (equal) the total benefits they received from their policy. The disregarded assets are permanently protected from estate recovery.

NAHU supports the Long Term Care Partnership program and encourages all states to adopt this federal-state hybrid initiative. However, adoption of the program is not enough. For states to have a successful program, states must also educate their citizens about the program. This should also be a joint federal-state effort.

When a person buys a Long Term Care Partnership policy, Medicaid is not the primary payer of LTSS. Thus, in addition to avoiding payment of Medicaid benefits, states reduce expenses for determining eligibility, administering benefits and recovering estates. Also, fraud potential is reduced due to fewer incentives for individuals to attempt to game the system by hiding or transferring assets. Furthermore, the sale of LTCi and reverse mortgages generates several sources of tax revenue, including from LTSS providers, whose revenues go up because of a higher percentage of private-pay clients.

Two additional important recommended steps to ensure it will be more difficult for individuals to obscure their assets and finances to qualify for Medicaid are:

1. Change the federal Medicaid eligibility regulations to reduce the ever-increasing home equity exemption, which in 2016 can be up to $828,000 (for ALL assets in England INCLUDING home equity no more than $32,250 assuming $1.50 to the English pound).[12]
2. Extend the look-back period on transferred assets from five to 10 years.

Changes like these would result in federal and state governments having better control of their Medicaid programs to better ensure only individuals absolutely needing public help receive it.

[11] Derived by Claude Thau from the following reports, which were the most recent he found for each state in November 2013: California Partnership for Long-Term Care Quarterly Report, 1st quarter, 2013 (www.dhcs.ca.gov), Connecticut Cumulative Program Statistics as of June 30, 2015 (www.ct.gov/opm/cwp/view.asp?a=2995&q=474136&opmNav_GID=1814), Indiana Long-Term Care Insurance Program Report Quarter 1-2012 Report (www.in.gov/fssa/iltcp) and NYS (New York State) Partnership for Long-Term Care Quarterly Update, 4th Quarter 2014 (www.nyspltc.org).

[12] Adrian Walker, "Logical Step? Using Equity Release to Pay for Long-Term Care," Professional Advisor, August 18, 2015.

SECOND PROPOSED SOLUTION: PERMITTING FUNDS IN EMPLOYER AND INDIVIDUAL RETIREMENT PROGRAMS TO BE ACCESSED PENALTY- AND TAX-FREE TO PURCHASE LTCi:

Retirement planning has changed dramatically. Now most employer-based defined-benefit pension plans have changed to defined-contribution plans. More than 100 million Americans currently participate in 401(k), 403(b), 457 and/or Individual Retirement Account (IRA) plans.[13] These programs are a very important step to help individuals ensure their financial security and have proven increasingly popular. Unfortunately, early-withdrawal penalties and an additional 10% tax on withdrawals before age 59.5 discourage individuals from withdrawing funds to purchase LTCi. Waiving taxes and penalties on money removed from such accounts in order to purchase LTCi would allow people to use a small portion of their retirement assets to protect the balance of their retirement assets for their and their spouse's intended uses.

NAHU believes allowing funds from retirement accounts to be accessed to purchase LTCi will benefit our nation in the following ways:

1. Individuals and families will be better prepared and experience less drain on savings and fewer burdens managing their daily lives if LTSS becomes needed.
2. Individuals with LTCi will receive better quality of care, including choice of caregivers and place to receive care.
3. Coverage will reduce burnout and protect the health of family members by facilitating hiring commercial caregivers and providing care-coordination services to help guide them through necessary decisions and arrangements.
4. LTC facility providers will receive private-pay reimbursements rather than the much lower Medicaid reimbursements. This will allow more innovation and competition in the LTC provider industry. The increased income will also result in facilities being able to pay low-income LTC workers higher wages.
5. States will save money on Medicaid benefits paid and processing costs for eligibility determinations and estate recovery.
6. The federal and state governments will receive more tax revenue from insurers, insurance agents and providers.

THIRD PROPOSED SOLUTION: IRS SECTION 125 REFORMS

More than 145 million Americans are a part of employee benefit plans.[14] However, too few of these plans offer LTCi plans.[15] Employers should be encouraged and incented to offer LTCi plans. Employers should also be incented to contribute toward the premium costs. Having LTCi offered as a benefit would demonstrate the value of taking personal responsibility for likely LTSS costs in the future. Employees who enroll gain yet another layer of financial security for their retirement planning.

A significant incentive to employees to enroll in an offered plan will occur if employees are allowed to purchase LTCi through their employer's IRS Section 125 plan. This allows reduced cost to employees by allowing pretax dollars to pay for premiums. Employers benefit by not having to pay payroll taxes on income an employee sets aside on a pretax basis. LTSS planning education, a vetted program and the ease of paying premiums through payroll deduction bring additional value to employees. The educational material should include encouraging LTSS planning for self and with family.

[13] Vanguard, "How America Saves," June 2014. www.fa-mag.com/news/how-much-do-people-really-have-in-iras-10914.html,2012.
[14] The Henry J. Kaiser Family Foundation, 2014 Employers Health Benefit Survey 9/10/14.
[15] The 2012-2013 Sourcebook for Long-Term Care Insurance Information. "At the end of 2011, there were approximately 12,000 employers sponsoring group LTCI coverage in the US.," p.13.

This recommendation can be implemented by changing Title 26 of U.S. Code, Subtitle A, Chapter 1, Subchapter B, Part III, which states, "Such term shall not include any product which is advertised, marketed or offered as long-term care insurance." Striking this line would easily remedy the prohibition and be in line with tax policy for benefits, such as Health Savings Accounts.

It is understood that the change would not benefit persons purchasing LTCi outside of an employer-sponsored plan since IRS Section 125 only offers tax preference to employer-sponsored benefit plans. However, those individuals could receive improved tax benefits if changes made to IRS 1040 tax deductions.

All LTCi policies are fully portable. This allows employees to have freedom and flexibility to change jobs or retire and maintain their same LTCi coverage. At time of purchase, policies offer options to increase coverage over time so benefits remain meaningful as the cost of care increases. The younger the age of a person purchasing LTCi, the less expensive the cost will be. Furthermore, if the three percent annual compounding of benefits option is chosen, 10 years later, an insured person will have 34% more benefit amount when he or she needs care. Making LTCi as attractive a purchase as possible to working Americans is a significant way to decrease the number of Americans who end up relying on Medicaid.

CONCLUSION

To respond to the aging of America and the increasing number of individuals who will need LTSS, NAHU recommends:

1. **Enforce Medicaid estate recovery, extend the Medicaid look-back period, limit the home exemption and educate the public about LTSS risks and State LTC Partnership programs.**
2. **Allow funds in an individual's retirement plan to be favorably accessed to buy LTCi.**
3. **Change Title 26 of U.S. Code to include LTCi as an allowable IRS Section 125 benefit.**

These recommendations have been developed by health insurance professionals who understand the LTCi marketplace and have unique insights gained from assisting consumers enrolling in LTCi coverage. Therefore, we feel confident that our recommendations, if implemented, will:

1. Encourage and enable individuals to better plan for the potential of needing LTSS, allowing increased financial security.
2. Increase state and federal revenues while reducing financial expenditures so Medicaid can now and in the future focus on our most-needy populations, as intended.
3. Improve the health of America's seniors and health and productivity of people who would otherwise be family caregivers.
4. Benefit all Americans by allowing both federal and state governments to achieve a stronger financial condition due to reduced LTSS expenses and increased revenues by generating a higher volume of taxes.
5. Result in a more competitive, healthy, stable and diverse LTSS marketplace, which benefits care recipients and their families.
6. Result in a more competitive, healthy, stable and diverse LTCi marketplace, which will increasingly permit less dependence on government-funded LTSS.