A Better Public-Private Approach to Resolving LTSS Financing Dilemma—Catastrophic Shared Stop-Loss:

Adapting Life Insurance to Meet Long-Term Care Needs

Morris Tenenbaum

A catastrophic, shared stop-loss program would provide long-term care for a majority of people by allowing participants to tap into life/death insurance benefits before accessing Medicare and Medicaid, thereby extending private coverage longer than current mechanisms do. Participants who reach the common LTC formula (three years of nursing care, six years of home care) would automatically be eligible for coverage, as needed. Death benefits could be used as a loan to avoid taxes and, when the patient dies, insurance would pay off the loan and heirs would still be entitled to the remaining assets.

In the case of the New York State Partnership, which serves as a model, the government is not only reducing its spiraling cost exposure—in 2013–14, the estimated savings to Medicaid was $34 million, part of a 19 percent annual decrease over the last eight years—but consumers feel secure in knowing they have the coverage they need, no matter what.

The Immediate Need for New Long-Term Services and Support Financing

The challenge of designing a comprehensive and sustainable long-term services and support (LTSS) system is considerable. The number of Americans who need LTSS is 12 million today, and an estimated 27 million by 2050. While 42 percent of people turning 65 will not use LTSS, 16 percent will spend $100,000 or more for it. To manage this risk, a reliable insurance mechanism is needed to help pay for these costs.

This rising need occurs against a backdrop of significant fiscal constraints, and levels of assistance and types of services vary widely.

Almost a third of the entire adult population—66 million Americans—are acting as unpaid caregivers for family members. Many are giving up jobs and income and paying out of their own pockets to help. Financial losses can be devastating for all but wealthiest people. Paid caregiving at home or in a facility is very expensive, especially over the long term, for people who rely on Social Security or disability benefits, pensions and retirement savings, and retirees don't have enough resources to pay for LTSS.

Private LTSS is not being utilized because of high costs and confusion about coverage, as well as a focus on more immediate financial demands. Younger consumers have no idea whether to buy long-term health insurance and how much to buy, and insurance companies don't know how much to recommend. Of those in need of LTC, only 7 percent are able to rely on private options. For Americans over 40, 65 percent have little to no planning for living expenses in retirement and only 8.2 million people are covered by private LTSS, representing fewer than 6 percent of Americans over 40. Even people earning more than $100,000 per year are foregoing LTSS insurance, expecting to rely on Medicaid and possibly transferring assets as the only viable way to pay for long-term care.

Another factor is the sale of long-term care insurance is not sufficiently profitable to carriers. Low interest rates lead to low investment yield, resulting in increasing premiums and much tighter underwriting for new policies. Also, the number of people on claim for four years or more has increased, mostly with older policies, and lapse rates are much lower than expected. People are also using services longer.

Spending for LTSS by Medicaid, the primary LTSS payer, will grow 6 percent annually, faster than GDP. Today individuals typically must exhaust almost all of their savings and spend a substantial portion of their income on health care and LTSS before they qualify for Medicaid.

Obstacles to Reforms

There are many hurdles to overcome, including fiscal constraints, which are difficult to conquer in a less than vibrant economy. Lawmakers are reluctant to increase spending. Also, partisan disagreement on the role of federal government continues to produce gridlock, and adding to social insurance programs like Medicare is unfeasible in the current climate.

Failure to provide solutions will overwhelm the existing structure, given the inevitable and increasing retirement of the baby boom generation—"the silver tsunami." For the next 18 years, 8,000 people will reach the age of 65 every day.

The vast majority of experts in the field call for a systemic overhaul of long-term care financing but little has been done. The Federal Long-Term Care Commission calls for "a sustainable balance of public and private financing" that (1) "provides the tools and protections to enable Americans to comprehend and better prepare for the financial risk of needing LTSS; and (2) ensures that individuals with limited financial resources or for whom the cost of their care exceeds their financial resources have access to needed high-quality services and supports."[1]

There Is a Way

The first step is to leverage life insurance/death benefits for LTSS by creating dual purpose coverage or "catastrophic shared stop-loss" insurance. Automatic (passive) enrollment minimizes resistance and costs. Medicaid would become the last resort for final coverage.

A program that provides some relief to individuals with catastrophic LTSS costs will generate greater Medicaid savings. New York State data shows that government will save money with this approach, which extends private coverage longer than private mechanisms today.

This is more palatable to fiscally conservative lawmakers and can accelerate death benefit as a loan to avoid taxes. When the patient dies, the loan is paid off by the benefit.

New York State Partnership for Long-Term Care model is currently set up to handle this type of system and is creating significant savings to the state, and it can be replicated in other states. The program lets individuals or couples who purchase a partnership policy to hold onto all or part of their assets (depending on the type of policy they purchase) under the Medicaid program if their long-term care needs extend beyond the period covered. Passive enrollment gives participants a helping hand at the point they need it.

INITIAL PURCHASE

The consumer buys catastrophic shared stop-loss insurance for life and/or long-term care. This addresses two major risks—income protection and long-term care costs. Consumers may also convert life insurance. A life insurance supplement of $100,000, for example, can act as a deductible for elder care, providing $300,000 long-term care coverage. About 70 percent of American have life insurance.

Stop-loss insurance attracts new customers to **insurance companies** and encourages current policyholders to purchase additional insurance.

The **employer** purchases tax-qualified stop-loss insurance in place of traditional term insurance, which generally offers a death benefit equal to one year's salary (at no extra cost to the employer). Today, at least $50,000 of employee term life insurance is tax-qualified for employers.

RETIREMENT

When the need for life insurance wanes for **retiree policy holders**, the need for long-term care insurance increases. Stop-loss insurance equals consumer choice.

Insurance companies develop and provide pay-out products for older consumers accessing stop-gap insurance, e.g., annuity options designed to protect policyholders.

With dual purpose insurance (DPI) flexibility *every option* can be covered, including individual situations and regional long-term care needs.

LONG-TERM CARE/END OF LIFE NEEDS

Consumers who need LTC can access funds available through their catastrophic shared stop-gap policy. In

1 Commission on Long-Term Care, *Report to the Congress*, at 60 (Sept. 30, 2013).

today's market, this is $160,000, sufficient for many LTC consumers.

If stop-gap policy funds are exhausted, consumer would be eligible for benefits under the Partnership for Long Term Care, which provides coverage after three years of nursing home care and/or six years of community-based care and/or a combination. This information is based on NYS Partnership projections.

To protect income and assets, rider payment options for consumers can be offered. This is not so with Medicaid today.

Insurance providers are obligated to dispense *only* funds insured by the stop-gap policy. There's no open-ended commitment to pay unlimited LTC costs of a single-purpose LTC policy. To protect insurance companies from unusual catastrophic losses, there could be a partnership with the government, which financially acts as a reinsurance entity for the existing liability.

Most importantly, stop-gap would greatly reduce the use of Medicaid to pay for long-term care, making more funds available for low income and disabled populations, as well as health care reform initiatives.

Corporations like IBM, or government personnel offices, can negotiate with their respective life insurance companies to provide "whichever comes first" life insurance, with the benefit payment decision to be made at the occurrence.

Possible Legislation to Spur Change

There are steps lawmakers could take to help. They could eliminate potential tax liabilities for accelerating death benefits while the person is alive. Alternatively, the benefit can be taken as a loan and paid in full on death. The partnership program should be federalized as an adjunct to Medicare or another federal entity to ensure portability. Legislation can also be created to allow tax deductions for premiums on life insurance policies that incorporate long-term care accessibility.

As an additional incentive to the insurance industry, the program should offer a rider allowing participants to protect their income as opposed to the current partnership under Medicaid where income is not protected.

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