Experts: Underwriting by Long-Term-Care Insurers Has Improved in Past 10 Years

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OLDWICK, N.J. — The wave of allegations over long-term-care insurers denying valid claims by elderly and sick policyholders are derived from policies companies wrote eight to 10 years ago, industry experts say. The good news? Underwriting has dramatically improved, while U.S. health legislation enacted in 1996 greatly helped to clarify policy language.

James Ryan, president of Lenox Long Term Care, a New York-based industry broker, said many of the problems are coming from policies issued before 1996. Some of the first-generation policies were "disasters" because policy language was vague, with no standardized "benefit triggers," he said.

The Health Insurance Portability & Accountability Act of 1996, however, clarified benefit triggers on tax-qualified plans. If someone has such a policy, Ryan said he easily knows if that person's claim will be approved or denied by asking if the policyholder needs help with bathing or dressing, for example, for a period of 90 days. If they do, "I know that's going to be an approved claim,” he said.

Nevertheless, there are "serious problems" in the long-term-care insurance industry, said Washington state Insurance Commissioner Mike Kreidler, chairman of the National Association of Insurance Commissioners' market conduct and consumer protection committee. Part is due to the industry's "inadequate" perception of how the market would function, he said.

A recent New York Times story examined complaints and suits filed against long-term-care insurers, especially Conseco and Penn Treaty American.

"It was really unfortunate that a couple of examples were expanded upon and by implication were applied to an industry that has done a really outstanding job of keeping its promises," said Laura Moore, president of John Hancock's long-term-care division. John Hancock Life recently said it sold more long-term-care insurance than any other carrier in 2006, citing Limra International as the source. The other top players in the market are Genworth Financial and MetLife, she said.

Plaintiffs' attorney Frank Darras said the lawsuits he's filing against carriers, including those over big rate increases, are stemming from policies written eight years ago and from closed blocks of business. These issues aren't limited to companies like Penn Treaty, but generally, companies that may have the closed blocks of business, he said.

Cameron Waite, Penn Treaty's executive vice president, said critics attempt to "anecdotally" tie claim denials to financial performance and stability for long-term-care insurance providers. For Penn Treaty, "this couldn't be farther from the truth," he said. Any company with a mature block of long-term-care policies, and thus higher claims, will have a higher ratio of claim denials than a company issuing a high level of new business each year, Waite added.

Last month, Penn Treaty posted a 2005 net loss of $13.9 million, as the insurer filed its delayed 2005 Form 10-K and audited financial statements. It cited an improved mortality trend for claimants in their fourth year or more year on claim.

In a conference call with equity analysts, William Hunt, Penn Treaty's president and CEO, said the company was seeking "appropriate" premium rate increases on in-force policies issued before 2002. "Industry analysis over the past year indicates that other long-term insurance carriers are beginning to see patterns in their older books of long-term-care insurance business, which are causing them to increase their claims reserves and require rate increases as well," he said.

Overall, carriers writing long-term-care business today are writing very different business than what they wrote 10 years ago, said Ryan. Among other factors, products are more expensive, he said, noting rates have risen anywhere from 20% to 35%.

Today, he said he meets with people in their 50s or even 40s who want to buy policies because they're experiencing their parents' long-term-care issues. But 10 years ago, the buyers were 65 and older. A 50-year-old, though, most likely won't file a claim until 20 years down the road, meaning they're paying into the policy much longer, thus better for carriers, he said.

Carriers are doing "a much better job" underwriting the business, Darras acknowledged. They're looking at the chances that new medicines, for example, may help improve people's health. "I think the cases that are actually pushing ahead, the marquee cases… are the cases that the industry looks at and says, 'what can we learn from these cases? How can we do a better job in the claim department?’"

But another noted plaintiffs' attorney, Ray Bourhis, is skeptical, saying he's seen "a real sales push" in recent years. "Elderly people are sitting ducks for the argument that [long-term-care] coverage will prevent them from becoming a burden to their children," he said.