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Re-evaluating Long Term Care Insurance

PROFESSIONAL OPINION
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Since my last article on this topic in March of 2014, there have been several developments. First of all, John Hancock withdrew from the New York State Partnership for Long Term Care ("The Partnership") effective April 27, 2015. As you recall, the main benefits of the Partnership Plan are the total asset protection policies that allow for individuals who have exhausted policy coverage to become Medicaid eligible, without any review of their assets, or any review of prior gifts made by the individual or their spouse. Such policies can really pay off for clients of high net worth who become in need of extended long term care, either at their residence, or in a skilled nursing facility. According to The Partnership website, the only remaining insurers to offer the Partnership Plan, as of this date (January 31, 2016) are Genworth, Massachusetts Mutual, and MedAmerica. As you will read below, this exclusive club has now apparently lost a member, leaving only two remaining.

Secondly, as many readers know, Genworth sought and received approval last year from state insurance regulators to increase premiums for long term care policy holders who purchased their policies before 2011. The rate increase was a whopping 60% (according to the New York Times, Genworth had sought a rate increase of 80-85%)! This understandably came as a shock to many (I had several clients call me in disbelief of the notices they received), especially those who had mistakenly thought that their premiums were "locked in" for life. Virtually every long term policy I have read always reserves the right of the insurer to increase premiums for the class that is insured. The language below is from a Genworth policy for a client of mine whose premium increased by 60%.

"We can change the premiums. Premiums will not change due to a change in Your age or health. We can change premiums based on premium class; but only if We change them for all similar policies issued in the same state and on the same form as this Policy."

The lesson here is obviously to read your insurance contract and understand the circumstances under which premiums may increase. Please note that Genworth did offer existing policy holders several options to allow their premium to stay the same, including reducing their inflation protection, extending the "elimination period" (the number of days you have to pay privately for care before the policy kicks in), and reducing the benefit coverage period.

The third recent development has been the decision by MedAmerica to withdraw from the long term care insurance market, which it first entered in 1988, effective February 15th 2016. Traditionally one of the most rate competitive insurers (and also an insurer that has offered unisex pricing), MedAmerica's withdrawal is certainly a blow to the long term insurance market here in New York, but is also an opportunity for other insurers to fill the void caused by their absence. MedAmerica will continue to service and honor policies for existing policy holders.

All of these insurer decisions were was obviously driven by the economic realities over the past seven or so years of historically low interest rates (cited by MedAmerica), which, when coupled with faulty actuarial assumptions (people with compromised health conditions are able to live well into their eighties and nineties) and very high (98%) retention rates have jolted the long term care insurance market. These realties have also led insurers to cut back on cost of living increases offered with their policies, and have led to very tightening underwriting. So where do we go from here? What is the advice for people who have purchased policies, or for those who are considering long term care insurance?

In my opinion, existing policy holders should stay the course if at all feasible. Even with the possibility of future rate increases, the insurance, if ever needed, will pay off and should provide significant financial relief to those facing long term care expenditures. The average cost of a nursing home in Monroe County, for a semi-private room, is now well over $400 per day. I joke with my clients that this is equivalent to staying at the Waldorf Astoria, but this is the reality. The other reality is that medications, therapy and diagnostic testing have extended life expectancy well beyond what it was even twenty years ago. The elderly require and ask for patient centered care, which all of us deserve, but such care is expensive. Long term care insurance certainly provides a hedge against such costs.

For people considering purchasing such policies, don't wait too long to decide, as insurers may not want to take on the risk as one's health starts to decline. And read the contract carefully! Ask your agent about the risk of premium increases, about cost of living adjustments, and exactly what the qualifying factors are for the insurance benefit to "kick in."

For those who do not have, or are unable or unwilling to purchase insurance, if you are concerned about the costs of long term care, and wish to formulate a plan to protect your assets, please consult with an elder law attorney. And certainly those who have such insurance should also be consulting with an attorney to help co-ordinate their insurance protections with their overall estate plan. The myriad laws, regulations and policy directives that govern the Medicare and Medicaid programs are very complex and, in many respects, are not at all intuitive and fall in the face of common sense and fairness. For example, the nuances in the laws governing how the New York State Medicaid Program treats annuities are remarkable (and very complex even for seasoned practitioners). Experienced attorneys should be able to help guide you with planning that is in accordance with your wishes and goals. Legal advice, coupled with the benefits afforded by insurance, remain the best available options to help protect assets for yourself, your spouse and your loved ones should the need ever arise for long term care.

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