

# Association of Insurance Compliance Professionals

## Update on Critical Illness Plans

Jennifer Howard, FSA, MAAA  
Milliman

Ginny McHugh  
President  
McHugh Consulting Resources, Inc.

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# Getting to Know You



# Critical Illness - History

- Critical illness insurance was founded by **Dr. Marius Barnard** with the first critical illness product being launched on the 6th of October 1983 in South Africa.
- Dr. Barnard ( 11/3/1927- 11/14/2014) was a surgeon and brother to Dr. Christian Barnard. He was a member of the team that performed the first human to human heart transplant.
- First product only had four triggers: cancer, heart attack, stroke, and coronary artery bypass graft.

# Critical Illness Update

- Overview

- General product features
- Federal issues
- Insurance department positions
- State filing challenges
- Rating considerations
- New trends

# General Product Features

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- Covers losses due to covered critical illnesses
- Pays lump sum benefit amount
- Five major benefit triggers
  - Cancer
  - Heart attack
  - Stroke
  - End-stage renal failure
  - Major organ failure
- Partial benefits for less severe conditions

# General Product Features

- Provides multiple payment options
  - “Once and done”
  - Buckets
  - Maximum percentage of face amount (200% to 500%)



# General Product Features

- “First Diagnosis”
  - After the effective date
  - Based on clinical/labs supported by medical records
  - “First occurrence” language problematic
- “Diagnosis” based benefits versus “treatment based” - careful not to appear as expense incurred

# General Product Features

- Benefit reduction
  - Benefits are reduced at a specified attained age
  - Not all states allow benefit reductions
- Definitions are key to the benefit
- Insurers need to monitor advances in treatment modes in determining what is and is not a “critical illness”
- States typically define “specified disease” versus “critical illness”, many are based on the NAIC Model 171 which is based on expense incurred treatment

# Additional Benefits

- Wellness: lump sum payment for health screenings
- Childhood conditions
- Total Disability (TD) Benefit: fixed amount benefit if TD based on a CI
- Waiver of Premium
- Degenerative neurological conditions

# Additional Benefits

- Various other Indemnity Benefits
  - Lodging
  - Transportation
  - Hospital admission and/or confinement

# Federal Issues

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- Compliance with ACA: ensure that the product meets the description of an excepted benefit, i.e. “specified disease”
- Coordination with Health Savings Accounts (HSAs)

# Insurance Department Positions

# Critical Illness

- New Jersey NJAC 11:4-53.2
  - “Critical Illness coverage” means coverage that pays a level lump sum benefit upon diagnosis of a specified disease without payment of further benefits in connection with hospital and medical care for the treatment of the specified disease.
  - "Specified disease coverage" means coverage that pays fixed-sum benefits on an indemnity non-expense incurred basis in connection with hospital or medical care for the treatment of a specifically named disease or diseases that are life threatening in nature.
- NAIC Model 171 s 7 A&H Min Stands ( applies to Individual & Grp)
  - "Specified disease coverage" pays benefits for the diagnosis and treatment of a specifically named disease or diseases.



# Pre-Existing Conditions

- NAIC Model 171 suggests a 6 month look back and 6 month pre-ex, but many states, particularly for group will permit 12/12
- Many states do not permit pre-ex based on symptoms and the prudent person language
- Pre-ex can not be applied to benefit waiting period language, and additional or recurrent benefits

# Pre-Existing Conditions

- States are rejecting 'first ever' or 'first occurrence' language
- Carriers are finding that they are required to use 'first after' language subject to PEC

# Waiting Periods

- General: Beginning after the effective date. Many states limit the waiting period to 30 days. [AR, NH]
- Some states do not allow waiting periods beginning at the effective date or between benefit triggers [NY, NJ]

# State Filing Challenges

# State Compliance Issues

- Face Page Disclosures- most states require a disclosure based on ACA FAQ #11:
  - THIS IS A SUPPLEMENT TO HEALTH INSURANCE AND IS NOT A SUBSTITUTE FOR MAJOR MEDICAL COVERAGE. LACK OF MAJOR MEDICAL COVERAGE (OR OTHER MINIMUM ESSENTIAL COVERAGE) MAY RESULT IN AN ADDITIONAL PAYMENT WITH YOUR TAXES

# State Compliance Issues

- California:
  - **IF ENROLLING FOR CRITICAL ILLNESS INSURANCE, A PERSON MUST BE COVERED BY AN INDIVIDUAL OR GROUP POLICY OR CONTRACT THAT ARRANGES OR PROVIDES MEDICAL, HOSPITAL, AND SURGICAL COVERAGE NOT DESIGNED TO SUPPLEMENT OTHER PRIVATE OR GOVERNMENTAL PLANS [10198.62(b) ]**
  - CA wanted an explanation of how the carrier would comply.
  - There is also a law that requires the carrier to file on an annual basis:
    - a certification from the carrier certifying that policies or certificates are being offered and marketed as supplemental health insurance and not as a substitute for coverage that provides essential health benefits

# State Compliance Issues

- Georgia:
  - Has very few laws/regulations for critical illness policies, but does have specific internal memoranda dated 5/20/1998, 7/23/2003, 8/1/2003 that are not published but may be obtained from the department (copies provided)
  - No reduction in age provision permitted
  - Pre-existing conditions limitation not allowed
  - Required premium refund for diagnosis during waiting period

# State Compliance Issues

- **Normally difficult states:** These states have many non-standard provisions or specific objections: *California, Florida, Louisiana, Maryland, Minnesota, Missouri, New Hampshire, North Carolina, South Carolina, Washington, and Wisconsin.*
  - **California:** required a highly detailed, highly visible disclose for not covering skin cancer and “cancer in situ”. Also required a carrier replace the terms with invasive and non invasive cancer. For the wellness benefit CA required the cancer screening tests for breast and cervical cancer be covered
- A benefit trigger related to ADL’s may require compliance with LTC requirements
- Explanation of Variables- be detailed and specific!
- Combining other indemnity benefits such as accident, HIP and even wellness benefits are not permitted in some states and must be filed separately. [CT , NJ sensitive to this]



# State Compliance Issues

- Physician: Many states object to having the diagnosis be made by a specialist or board certified physician.
- Travel, lodging and meals : has been objected to in states like CA, WA
- First Diagnosis: some states take position the "first diagnosis" trigger would never cover a pre-existing condition which is in violation of their law. They may allow a waiting period, but the "first diagnosis", "first ever" or similar terms requirements must be deleted. [ NJ, DS, VA]

# Rating Considerations

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- Potential rating variables
  - Plan design
  - Age
  - Family tier
  - Tobacco status
  - Gender

# Rating Considerations

- Risk mitigation items in the worksite
  - Require actively at work
  - Must be employed for a specific amount of time before eligible for coverage
  - Pre-existing condition exclusion period where permitted
  - Group size/participation requirements for guaranteed issue
  - Can require simplified underwriting

# Rating Considerations

- Some states may have additional requirements for actuarial review [CO, FL, MN, NY]
- For guaranteed renewable forms, many states will accept a 50% minimum loss ratio based on the NAIC guidelines for type of coverage and renewability
- Almost all states will accept a 55% minimum loss ratio for guaranteed renewable forms.

# Rating Considerations

- Some states require annual rate certifications to be filed [FL, NC]
- CA requires an annual filing that includes filing the average annual premium, or range of premiums
- This list is not all inclusive and other ARCs may be required that are not listed here

# New Trends

# Covering More Conditions

- Other illnesses included as CI
  - Advanced Alzheimer's (Stage 6)
  - Advanced Multiple Sclerosis (6 mo+)
  - Advanced Parkinson's ( Stage 4)
  - Advanced ALS/Lou Gehrig's Disease (Middle Stage)
  - Benign Brain Tumor
  - Coma
  - Severe Burns



# Covering More Conditions

- For Dependent Children
  - Cerebral Palsy
  - Cleft Lip or palate
  - Cystic Fibrosis
  - Down Syndrome
  - Spina bifida

# New Trends

- Aside from individual or group workplace programs:
  - Internet/Direct Marketing
  - Marketing to Seniors or Older Ages
    - NAIC Model Bill 171 does not explicitly permit age reduction so a number of states are rejecting i.e. CT.
      - MD allows as long as there are 2 full benefit years
      - UT allows with prominent disclosure
    - Guide to Health Insurance for People with Medicare must be provided to enrollees eligible for Medicare
    - California prohibits marketing to seniors and limited the upper issue age to 65
    - Higher loss ratio requirements in some states

# Q & A

Ginny McHugh  
President  
McHugh Consulting Resources, Inc.  
[GMchugh@mchughconsulting.com](mailto:GMchugh@mchughconsulting.com)  
(215) 230-7960

Jennifer Howard, FSA , MAAA  
Actuary  
Milliman – Tampa, FL  
[jennifer.howard@milliman.com](mailto:jennifer.howard@milliman.com)  
(813) 282-9262