Chapter 13

Long-Term Care Insurance Benefits at the Worksite: The Employer

Say what you will about the Patient Protection and Affordable Care Act (PPACA), but it is having a marked effect on the voluntary worksite marketplace by decoupling one's health insurance from one's job.

There is already evidence that as employees are making their own health insurance choices (versus the plans their employers chose on their behalf), they are opting for lower-priced options. "The income gained by selecting lower-priced health insurance could be used on ancillary benefits," according to one study by Accenture, who estimates the value of such freed-up dollars at $4 billion by 2018.[1]

Enter long-term care insurance.

Although CLASS (described earlier in Part One) did not survive, it underscored the worksite opportunity—by the public sector no less. The federal government acknowledged a need—one that can best be met through an employee's benefit portfolio. This is an important lesson to keep in mind.

It all begins with the employer. How is it advantageous to an employer to offer long-term care insurance as a worksite product? What are the tax consequences of doing so? If it is offered, will employees want to buy it? What is the ideal age and salary of the workforce?

This market has delivered for those who've dedicated themselves to it, but it can be confounding for those who dabble. Likewise, insurers have one by one had to rethink their own involvement in worksite, until now just a few specialists are left. Since worksite may yet hold the key to the safe that is untapped, dynamic long-term care sales, it would be wise for financial advisors to become familiar with it.

The Worksite Marketplace

The worksite is still a wide-open opportunity for long-term care insurance, akin to the one confronting pioneers who poured through the Cumberland Gap to head west and begin a new life. According to analysts, there are 5.8 million small- to medium-sized businesses in the United States who do not yet offer a long-term care insurance benefit to their employees.[2]

The actual number of *employees* covered by these businesses exceeds forty million. Meanwhile, the penetration rate of either multi-life long-term care insurance or true group in the small to medium-sized business market ranges from 0.2 percent to 1.0 percent. (The market among the seventy-five million employees covered by large employers—those with over one hundred employees—has fared better. True group penetration is estimated anywhere from 9 to 35 percent, although exact numbers are hard to come by.[3])

There are the usual reasons why long-term care insurance should not work at the jobsite: The audience is too young to be motivated about long-term care insurance, the prices are still too high to interest a significant number of people, and the Human Resources (HR) person is less interested in this type of coverage than other benefits they consider to be higher priority, such as health insurance, short- and long-term disability, dental and vision benefits.

But given the chance to review this coverage, employees know better than anyone how this need might affect them. This could be the first chance they have been given to add this benefit to their portfolios. No advisor has called them to talk about it. They may have had hands-on experience as caregivers, and they are, for the first time, discovering the premium they must invest to own coverage for a future need.

An often-overlooked fact about long-term care insurance and employees is that it can be more closely tied to health insurance than it seems. Health insurance covers short-term needs, and it may even provide for a limited number of days for home health and skilled facility care. Long-term care insurance supplements this, extending the number of days of coverage considerably for both types of care. Employees can decide how important this might be to them.

The health of an employee may also be a factor. Many are living with medical problems even as they continue to work, so they may be able to relate to long-term care insurance. Research shows that 40 percent of Americans live with a chronic condition, while 60 percent of these—about 65 million people—are working-age adults.[4] Chronic care equals long-term care assistance, so many are likely to jump at the chance to add important supplemental coverage for it, especially if the purchase is easily accessed through the workplace.

And it can be simple. Many worksite sales are completed with relaxed underwriting, improving the chances of issue dramatically, especially for those with the aforementioned chronic conditions.

The sales premise of the worksite marketplace is to offer supplemental products to a larger audience than the individual sale (e.g., you only have to make one sale—to the CEO—instead of multiple individual sales). The business market is often a daytime market, although we have all been on enrollments at 10 p.m. or 5 a.m. catching the night shift coming on or getting off work. Employees purchase the majority of their insurance coverage through their place of employment, and benefit packages are a requirement of many job seekers.

Benefits continue to retain and attract employees, as evidenced in this recent survey:[5]

1. Sixty percent of employees say benefits are an important reason that they remain with an employer.

2. Forty-nine percent say that benefits were an important reason that they came to work for a company.

3. Fifty-two percent of employees are interested in a broad array of voluntary benefits they can pay for on their own.

4. Only forty-three percent of employers believe their employees are interested in voluntary benefits.

You can easily see the perception gap here and why the financial advisor often acts as a liaison between the employer and employee. Clearly, employers often underestimate the power of a strong benefit package. Employees want solid, high-quality offerings, and if they see the value they will buy. This helps employers retain employees who become tied to their benefit packages.

Your first sale at a worksite setting begins with the employer. If you can convince him or her of the value of the program you are offering, you have completed an important first step in the successful implementation of the program.

Talking to the Boss

The success of bringing long-term care insurance to an employer's workforce hinges on how well you demonstrate its advantages to the employer.

There are two ways to approach an employer about worksite long-term care insurance. The first involves the many tax advantages of the offering, especially if the employer contributes premium to the plan (i.e, employer pay). The second involves employer approval of the long-term care insurance program without having to contribute money to it (i.e, voluntary pay). Both designs have their appeal.

Tax breaks first: the tax consequences of long-term care insurance were clarified by the Health Insurance Portability and Accountability Act (HIPAA) in 1996. This law established Internal Revenue Code Section 7702(b) for long-term care, created tax-qualified long-term care insurance, and paved the way for both the tax deductibility and the tax-free distribution of these insurance benefits.

More important from the employer's point of view is the ability to carve out a specific group of employees to cover with long-term care insurance. Almost any criteria other than age or gender can be used to do this. (Classic carve-out distinctions are title, tenure, and salary, although combinations are also possible.) There are rarely, if ever, any ERISA, HIPAA, or COBRA reporting requirements are associated with a multi-life long-term care insurance plan.[6] This generally piques the interest of an employer prospect.[7]

Think about it. An employer can select the employees most important to the firm to receive a new employee benefit—long-term care insurance. Any business that buys a long-term care insurance policy and pays the premium on behalf of an employee receives tax deductibility. Should the owner also wish to be covered, the deductibility of the premium could be limited, depending on the type of business.

A C-corporation owner would retain full tax deductibility of the long-term care insurance premium. S-corporation owners[8], partners, and sole proprietors can deduct some or all of any premium paid based on an age-banded table whose values rise each year (see Table 6.2). Incidentally, this is the same table that people with Health Savings Accounts (HSA's) use to withdraw the maximum eligible amount to pay for their long-term care insurance premiums.

If you are an S-corporation owner[9], a partner, or a sole proprietor and you *also* happen to have an HSA, you can potentially use both the business tax deduction and the HSA withdrawal to maximize the tax break available to you. In no event can the deduction and withdrawal exceed your annual premium, but the HSA can potentially pay for the entire premium amount.

Here is an example: You have an S-corporation owner[10], age fifty-eight, whose individual long-term care insurance premium is $2,250 annually. This person is eligible to deduct $1,400 (see Table 6.2) from the business as an expense. This leaves an $850 balance on the annual premium. Since this business owner also maintains an HSA, up to $1,400 can be withdrawn from it as well. Because only $850 is left to pay on the annual premium, the full amount available is unneeded. The client can withdraw the $850 from HSA funds to pay the balance. This means that the entire $2,250 premium was paid for with pretax dollars, a best-case scenario for long-term care insurance.

Taxes are generally a jump-start for employer conversations. Once you explain the carve-out situation where an employer can reward key employees of his or her choice, the sales opportunity presents itself. Depending on the size of the employee group established, there may be some underwriting considerations or discounted premiums, even with individual policies.

But today's economic climate could affect the course of this conversation. Without question, the Great Recession has had an impact on businesses and employee benefits (and it continues to do so). Money that might ordinarily be available to purchase high-quality individual long-term care insurance may be scarce.

This does not mean that employers are trying to cut back on their benefit packages. In fact, they are looking to strengthen their benefit offerings as a means to retain and reward trained employees. Although unemployment rates remain relatively high and qualified employees may be readily available, savvy employers are always trying to retain employees because of the costs associated with acquiring and training new talent.[11] This presents an opportunity for financial advisors to explore a different approach to bringing long-term care insurance to the worksite.

What if an employer could offer a voluntary worksite long-term care insurance plan without having to contribute *any* dollars? What if this plan could be written without so many of those pesky medical questions? What if the rates were discounted because of the employer's bulk purchasing power?

Although employer pay programs enjoy greater success (since participation is guaranteed), the scenario described above is most often how long-term care insurance is brought to the worksite market today. No employer contribution, minimal required employee participation, a finite enrollment period, preapproval of the census, and competitive plan designs offered in a choice-of-three menu. If an employer can add a new, in-demand employee benefit at no tangible cost other than making time for a financial advisor to see the employees, it's hard to say no to this suggestion.

The employer is positioned as the hero: without spending a dime, he or she has done the hard work of shopping for long-term care (widely perceived as a complex product) and through affiliation with you, the financial advisor, made a recommendation of a high quality carrier, obtained a meaningful discount that cannot be obtained on the street, and accessed underwriting privileges for employees with health challenges. Often, these benefits can be extended to employees' partners and family as well.

These policies cannot be written as part of a Section 125 plan. This was excluded as part of HIPAA, an oversight that has yet to be corrected. Still, participation has been strong even though employees have to pay for it with after-tax dollars. (Unless of course, they have an HSA.)

Even hard-to-crack HR/benefits people can soften a bit when given the no-cost voluntary plan description. Many still think that long-term care insurance skews toward an older workforce and are therefore reluctant to consider it, thinking it would be a waste of everyone's time. In this situation, it is good to question why they offer benefits like dental insurance. Once you hear their reason for that, you can begin to see how they think about such offerings and tailor your presentation accordingly.[12]

Presenteeism

There is yet another card to be played. Many employers today are dealing with employee absence caused by caregiving demands. Businesses that offer long-term care insurance at the worksite may reap a more productive workforce as a result.[13]

Concern about long-term care in the workplace is not only about employees becoming disabled. It also involves the loss of employee services due to caregiving chores. An employee who is not at work is clearly not productive. Whether the absence is because of physical problems or caregiving obligations may not matter to an employer. Regardless of reason, the person is absent (called absenteeism).

But the effect of caregiving responsibilities may not be completely measurable by absences alone. In the 1990s, a new phenomenon started to appear in the workplace: *presenteeism*.[14] This is when an employee reports for work but is far less productive than normal. The term also applies to employees who come to work sick and similarly under-perform their job responsibilities.

What could keep a caregiver busy during the workday? Mostly, time spent on the phone—with the person being cared for, with the home health aide, with a family member, or with a neighbor who is checking on the dependent adult. If that phone time adds up to two hours a day, then in an eight-hour day, actual productivity slips to six hours. Over several months, this will add up significantly. As we know, caregiving is not generally a one-time or short-term effort. It may involve two or three years or more of the working caregiver's time. How many lost hours does that amount to?

Presenteeism productivity losses are based on the indirect costs of workers managing daily caregiving tasks from their desks, lack of initiative due to repetitive caregiving problems, and a failure to focus on and successfully perform workplace tasks because of chronic, low-level, caregiver-related illnesses. These illnesses can include depression and fatigue, chronic stress, anxiety, head- and backaches, and stomach and intestinal disorders.[15]

The difficulty with identifying presenteeism is that lost productivity is unlikely to show right away. It may be weeks before someone notices the drop-off in performance, and longer still to address the problem. Working caregivers rarely share this extra-vocation information with fellow workers, let alone supervisors and managers.

How can long-term care insurance help?

Worksite long-term care insurance not only can be offered to employees, it can also be offered to employees' family members. Although family members do not always enjoy the more lenient underwriting available to the employee, these relatives may still be able to take advantage of the relatively easy enrollment process and lower prices afforded the group. Managed properly, this expands the number of potential applicants on a worksite case five-to tenfold and more.

It's important to convince the HR manager that sales to family members can address a major cause of presenteeism. If a family member has a policy and a long-term care event occurs, the need for the employee to serve as caregiver declines dramatically. The policy can pay for adult day care or regular home health agency visits and, if the condition worsens, facility care. The employee drops into the generally more desirable category of back-up caregiver. Medical conditions that normally plague caregivers are then less likely to affect the employee. Less time will be spent on personal phone calls because the insurer typically assigns a care coordinator to answer the daytime calls that had been going to the employee.

Once an employer understands that the long-term care insurance program can be offered to more than employees—and the positive ramifications of this—the chance of acceptance of this new employee benefit offering rises substantially.

If employers do opt to pay premiums towards employee long-term care insurance coverage, insurers allow quite a bit of creativity. The employer may single out some key employees and decide to pay only their premium. Or the employer can buy a starter amount of benefits such as $50 per day for three years, with the employee having the option to upgrade to a higher benefit and longer benefit period. The overall effect of the latter design is the purchase of a policy that is partially-funded by the employer, further reducing its cost to the employee. Variations on this theme also include the employer agreeing to fund a certain flat amount per month per employee, or a percentage of each employee's plan per month.

What's Next?

The benefits of long-term care marketing in the worksite are vast:

- The availability of LTC insurance allieviates concerns over skyrocketing healthcare costs at a time when uninsured expenses dominates the news.
- LTC insurance can help pay for an important class of services not covered by most health insurance.
- LTC insurance is increasingly requested as part of a compensation package: it can be used to attract and retain key employees.
- LTC insurance helps to solve the twin workplace issues of absenteeism and presenteeism.

- The employer can offer LTC insurance on either a voluntary or employer-paid basis.
- Premiums paid on behalf of employees may be deductible and do not increase FICA expenses.
- Coverage may be extended to spouses, domestic partners, adult children, parents, in-laws, plus retirees and members of the Board of Directors.
- The agent or financial planner takes on the bulk of admin, planning, marketing and enrollment.
    - Premiums may be discounted 5 to 20 percent.
    - Depending on participation, underwriting may be simplified.
    - Policies are individual and portable; benefits are geared toward the needs of each participant.
    - Benefits are tax-free, even when premiums are paid with pretax dollars.

Will we ever see the day when long-term care insurance can be included in Section 125 cafeteria plans? In the years following the passage of HIPAA, the insurance industry has pressed hard for the inclusion of long-term care insurance in Section 125 plans. Many businesses, large and small, have this type of employee benefit program, which allows employees to purchase supplemental products with pretax dollars. This also has the effect of reducing payroll, consequently saving the employer money on taxes, unemployment compensation, workers' compensation, and the like. Many observers wait for this day as though it will be a watershed: this author's opinion after seventeen years is, "Don't hold your breath."

On the one hand, every employee who decides to buy long-term care insurance at the workplace is potentially one less applicant to the Medicaid program. With attention focused on Medicaid because of budget constraints, there is an opportunity to pass meaningful legislation that permits this method of buying long-term care insurance (i.e., Section 125 plans). On the other hand, money is so tight at the federal level that it seems unlikely the government would pass any legislation which has the effect of reducing revenues. Would we step over a dollar to save a penny?

The future of worksite marketing may be most impacted by its immediate past: the withdrawal of all true group insurers save one, and the sea change to gender-based rates that swept over the industry in the course of under a year.

First, true group. When we discuss multi-life we are typically speaking of employers in the range of no fewer than three or five lives up to a maximum of several hundred (or even a thousand).[16] Realistically, the most common profile is the white-collar, high-income, geographically local employer we find in the legal, medical or architectural fields. With the exception of one insurer, gone are the days of true group, by which we envision one master certificate, guaranteed issue, and very large profiles such as school districts, city or government employees, or national employers (the sort who advertise on television).

In part this is because the carriers who used to offer true group have each exited the market one by one, but the tale of multi-life is also a tale of adverse selection on the part of agents. Minimum participation requirements have followed a predictable path upward from one life to three to four to five to seven to nine to ten, at each stop the carriers believing they would receive a profitable mix of healthy applicants wherever they set the bar for simplified underwriting. At each stop they later learned they'd been burned. Carriers who've left multi-life entirely have intimated they'd like to return, but only if stringent criteria were met.

If that day ever comes, they will find one significant change between the employer market and individual market they never had to contend with before—gender-based rates. Although we will cover gender-distinct pricing elsewhere in the book, for our purposes there's just one thing to know: due to the 1964 Civil Rights Act, it is illegal to utilize gender-based pricing in the workplace.

For those insurers who remain committed to worksite sales, this is a complicating fact. They may offer a gender-based product to the individual, retail market, and a second, gender-neutral product to the worksite market. This not only increases overhead on the part of the carrier, but confusion on the part of producers.

It's not a stretch to imagine that carriers who still offer multi-life products (there are only two remaining as of 2014) may one day decide it's not worth the return to continue maintaining twice the portfolio. Should the day ever come that they discontinue their gender-neutral products, the executive carve-out market would virtually disappear: no legal long-term care insurance product would exist in the worksite that an employer could buy for its employees and for which one could take a federal income tax deduction.[17]

Unless or until that hypothetical comes to pass, there are still dozens of reasons why worksite LTCI makes sense. Coming up, we'll discuss how to design a program, as well as the proper elements necessary to ensure a successful implementation.

Endnotes

1. "Many Employees Will Choose Lower Benefit Levels on Private Health Insurance Exchanges", Accenture, 2013.
2. "8 Keys to Success with Worksite Long-Term Care Insurance," Senior Market Advisor (November 2010).
3. It is estimated that slightly more than 11,000 employer groups sponsor coverage, with about 2.0–2.5 million certificates inforce. Source: "The Current State of the Long-Term Care Insurance Market," Marc A. Cohen, PhD. LifePlans Inc., Presented to 14th Annual Intercompany Long-Term Care Insurance Conference, March 16-19, 2014.

4. Phyllis Shelton, "You Can Sell LTCI in the Workplace," Advisor Today (September 2009).
5. American Association for Long-Term Care Insurance, 2011 LTCi Sourcebook.
6. We have read guidance from one carrier which they provide to prospective employers "as they decide whether their long-term care insurance plan should be subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA")." Although making it clear it is the employer's responsibility to ensure compliance, the guide suggests a number of exemptions.
7. Mickey Batsell, "The 3 Types of Worksite Long-Term Care Insurance Plans and Why They Make Sense for Group Clients," Agent Sales Journal, June 1, 2010.
8. Specifically, "greater than 2 percent shareholders."
9. Ibid.
10. Ibid.
11. Christopher Matz, "Turn the Tough Economy Into Your LTCI Worksite Marketing Opportunity," Life Insurance Selling, February 6, 2009.
12. McLean Robbins, "Crack the LTC Code by Overcoming Objections or just Avoid Them through Storytelling," Employee Benefit Adviser (May 2008): 32.
13. Connie Kandansky, "Remind Employers That Group LTCI Can Benefit the Company and the Workers," Advisor Today (July 2008): 61.
14. "Study of Corporate-Sponsored Eldercare Finds GCM Programs Improve Presenteeism of Working Caregivers," PRWeb release, distributed through eMediaWire, February 20, 2008.
15. David J. Levy, "Presenteeism," American Association for Caregiver Education, report updated January 2007.
16. These rough guidelines pertain only to employers; there are different guidelines for the affinity marketplace, which consist of organizations like credit unions, labor unions, automobile clubs, professional societies, and the like.
17. "Gender Distinct Pricing: New Directions," Claude Thau, September 11, 2013 www.lifehealthpro.com