Hi Karen,

I understand from Roger that a request for comment will be sent out on the incidental benefits issue. Here is some feedback from Minnesota.

1) Critical illness showed up twice on the previous attachment, but both sections are different.

2) This MN law creates problems for MN in terms of several of the incidental benefits suggested (critical illness, accidental death benefit, accidental dismemberment benefit):

60A.06 Subd. 3. Limitation on combination policies.
(a) Unless specifically authorized by subdivision 1, clause (4), it is unlawful to combine in one policy coverage permitted by subdivision 1, clauses (4) and (5)(a). This subdivision does not prohibit the simultaneous sale of these products, but the sale must involve two separate and distinct policies.
(b) This subdivision does not apply to group policies.
(c) This subdivision does not apply to policies permitted by subdivision 1, clause (4), that contain benefits providing acceleration of life, endowment, or annuity benefits in advance of the time they would otherwise be payable, or to long-term care policies as defined in section 62A.46, subdivision 2, or chapter 62S.
(d) This subdivision does not prohibit combining life coverage with one or more of the following coverages: (1) specified disease or illness coverage; (2) other limited benefit health coverage; (3) hospital indemnity coverage; (4) other fixed indemnity products, provided that the prescribed minimum standards applicable to those categories of coverage are met.

Where 60A.06 Subdivision 1
(4) To make contracts of life and endowment insurance, to grant, purchase, or dispose of annuities or endowments of any kind; and, in such contracts, or in contracts supplemental thereto to provide for additional benefits in event of death of the insured by accidental means, total permanent disability of the insured, or specific dismemberment or disablement suffered by the insured, or acceleration of life or endowment or annuity benefits in advance of the time they would otherwise be payable;
(5)(a) To insure against loss or damage by the sickness, bodily injury or death by accident of the assured or dependents, or those for whom the assured has assumed a portion of the liability for the loss or damage, including liability for payment of medical care costs or for provision of medical care; (b) To insure against the legal liability, whether imposed by common law or by statute or assumed by contract, of employers for the death or disablement of, or injury to, employees;

3) Based on the attachment sent that described the benefits, many of them need to be edited in order to remove the concept that the policyholder as the employer: COBRA, Retirement Benefit, medical Insurance Premium Benefit.
4) Many benefits need to specifically address how and whether the benefit would be coordinated with other sources: critical illness benefit, family member care benefit.

5) Some are problematic in terms of pricing equity or adverse selection considerations (retirement benefit perhaps needs to be fixed dollar amounts and not based on savings elections, and pre-existing condition implications vary based on the actual condition such that I am not confident that what has been written thus far gives me guideposts within an individual disability policy perspective in terms of “price included”….some people have no preex conditions so how is that equitable?

6) One of the major concerns I had was that the benefits are not incidental...some of them are material in terms of a comparison with disability benefits. That said, many of them are incidental. The trouble comes in when we consider that a material benefit may have a higher loss ratio standard required, and thus disability could be a red herring used in order to accomplish lower loss ratios overall. This is particularly the case if the 45% loss ratio is offered for noncancelable disability....we have no loss ratio in our state with that low of a minimum loss ratio other than noncancelable disability.

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From: Bohn, Kristi (COMM) [mailto:kristi.bohn@state.mn.us]
Sent: Tuesday, January 23, 2018 1:30 PM
To: Mealer, Mary; Schutter, Karen
Subject: FW: DOL Rule - employer sponsored DI

This looks like it should impact group disability standards....and possibly mimicked for individual.

From: Bohn, Kristi (COMM)
Sent: Wednesday, January 10, 2018 1:17 PM
To: Stefani, Roger (COMM) <roger.stefani@state.mn.us>; Lohmann, Tammy (COMM) <tammy.lohmann@state.mn.us>
Subject: FW: DOL Rule - employer sponsored DI
Comments from Minnesota Department of Commerce

Interesting news...

Best's News Service via Bestwire - January 09, 2018 03:58 PM

Despite Industry Complaints, DOL Approves New Rule on Disability Income Insurance

WASHINGTON - Overruling industry criticism, the U.S. Department of Labor will implement an Obama administration-era rule, which will overhaul the handling of employer-sponsored disability income insurance and give consumers a clear path to appeal adverse decisions.

Beginning on April 1, insurers will have to comply with new rules when handling claims for employer-sponsored disability income insurance.

Insurers will have to give disability claimants a clear explanation of why their claim was denied as well as their rights to appeal a denial of a benefit claim and to review and respond to new information developed during the course of an appeal. The rule also requires a claims adjudicator could not be hired, promoted, terminated, or compensated based on the likelihood of denying claims.

Developed under the previous administration, the rule was released in 2016 and set to go into effect on Jan. 1. However, the DOL under President Donald Trump in October pushed the implementation date back to April 1 to give insurers more time to comment on the impact of the proposed rule.

Insurers and trade associations said the rule would create an excessive burden on the industry.

“While intended to improve the claims-review process and consumer experience for private disability income insurance claimants, if allowed to take effect as currently written, the rule would instead drive up the cost of private disability income protection without providing significant real benefit to working Americans,” said Matthew Eyles, America’s Health Insurance Plans senior executive vice president and chief operating officer.

“This would impose counterproductive, unnecessary and increased costs on consumers and reduce consumer access to disability income protection,” Eyles wrote in a comment letter to the DOL.

Cigna Corp. also objected.

David Schwartz, head of global policy, Cigna federal affairs, said the costs the industry will have to bear dwarf any benefits consumers could see.

“The final rule provides absolutely no disincentive for abuse. We fail to see how the benefits of unfettered use of a strict adherence violation tactic, coupled with the 10-day letter requirement, outweigh its costs,” he wrote in a comment letter. “If claimants take advantage of these new mechanisms and file early in federal court, judicial resources will be further strained or wasted.”

However, the DOL said the roughly 200 comment letters it received left it unmoved; it will implement the rule on April 1. The final comment period closed last month.

“Only a few comments responded substantively to the department’s request for quantitative data to support assertions that the final rule would drive up disability benefit plan costs, cause an increase in litigation, and consequently reduce workers’ access,” the DOL said in a statement. “The comments did not establish that the final rule imposes unnecessary regulatory burdens or significantly impairs workers’ access to disability insurance benefits.”

Approval of the disability income insurance rule is in stark contrast to Trump promises to reduce the breadth of federal regulations and the burden borne by U.S. industries. For example, the DOL has pushed back implementation of the final fiduciary rule until next year (Best’s News Service, Nov. 27, 2017).