UNDERSTANDING THE

PROPOSED NEW YORK STATE

COMPACT FOR LONG TERM CARE

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BACKGROUND

- Asset Protection: The proposed Compact for Long Term Care was designed as the next step in building the public/private funding structure envisioned in the original New York State Partnership for Long Term Care (NYSPLTC) program established in 1993. Like the partnership, assets protected under the Compact are not subject to estate recovery or liens. (This is true for all partnerships, current and those to be created under new DRA legislation.)
- Federal Participation: The Compact is meant to operate under a Medicaid waiver. Enabling legislation requires full federal participation as a condition of implementation.
- Eligibility Rules: To the extent applicable, Compact rules mirror Medicaid. For example, the eligibility process has both a lookback period and penalty. (Note: The three year lookback period under the Compact reflects the fact that the bill authorizing the program was written and introduced prior to passage of the five year lookback required by the DRA.)
- Penalties: The value of any transfers made during the lookback period is added to the participant's Pledge amount. Specifically, the legislation states that buying a home of a higher value in order to reduce the Pledge amount is not acceptable. The difference between the values of the homes will be added to the Participant's Pledge. Failure to fulfill other program requirements such as remitting co-payments or Participation Fees will result in expulsion from the Compact and the withdrawal of all the rights, privileges and asset protection of the program.
- Education: Enabling legislation for the Compact provides for public awareness including the distribution of booklets and brochures. However, while consumers may seek information from many sources including legal counsel, the legislation requires that enrollment, Pledge computation, and eligibility determination shall be the responsibility of third party administrators who will be contracted with the NYS Dept of Health.
- Services: During the Pledge period, payments for the cost of any qualified long term service may be applied against the amount for which the participant is responsible. Participants who have completed their Pledge are eligible to have their future qualified long term care services subsidized at the Medicaid rate. New York has a very robust Medicaid program for long term care. Among other services it covers personal care, home health care, nursing care, nursing home care, home modification, assisted living, adult day care, and homemaker services. In short, the NY's Medicaid program is fairly consistent with most LTCi policies.
- Incentives and Public Expenditures: Incentives under the Compact are similar to those under the partnerships. That is, in exchange for asset protection, the participant agrees to cover a set amount of their LTC expenses. The differences between the original NYPLTC and the Compact are that
    - a) the Compact includes the less wealthy and less healthy. These two groups constitute not only the majority of the population but most of the divesters as well. Lacking access to insurance, the less healthy face a choice between impoverishment and divestiture. The Compact offers a third option and an incentive so the outcome is likely to be far more advantageous to the state.

      The less wealthy face the same choices. Again the state gains, but so does the LTCi industry. Lifetime comprehensive coverage based on ½ one's personal assets means less benefits and much lower premiums. The market for LTCi immediately expands from 10% of the population to 50% or more.
    - b) the Compact allows participants to keep more income. A drawback of standard PLTCs is that participants must adhere to Medicaid income rules. In New York, a very generous state, that means the participant in home care is allowed only $692/mo if single or $900/mo if married. These limits lead many to avoid the partnership.
    - c) the Compact amplifies personal responsibility. In addition to the up front Pledge, Compact participants are expected to cover a 10% co-payment on their subsidized LTC services and pay for all their other health needs on their own. Unlike the PLTCs, Compact coverage is for only LTC. Paying for other Medicaid covered services such a physician care, Medicare co-payments and deductibles, and drugs is up to the participant.

- d) the Compact saves state dollars. Legislative scoring done by Milliman, Inc indicates that the Compact's shows savings potential for one year's entry population of up to $500M. It's easy to understand why legislators from both parties and both houses find the idea intriguing.

- Acceptance of LTC Risk: Despite increased public awareness and growing personal experience, the public has not accepted the risk of long term care. As shown in the latest LIMRA Buyer/Non-Buyer survey, while more people know about the problem, the percent acting on that knowledge remains relatively small. Although there are many theories regarding why, the reason that makes the most sense is that funding LTC is too big, too vague, and too costly for most people to contemplate. Planning for an unknown risk in the distant future that may not happen is hard enough to accept. When the remedy entails an insurance premium equal to a mortgage payment, avoidance is the easier route.

  For example, a 55 year old couple in NY with $300,000 in assets and a $200,000 home must spend approximately $4000 a year for a three year, $200 day policy. An NYSPLTC policy with Total Asset Protection will cost them between $3700 and $5100 (depending on which PLTC program is selected). Premiums like these are hard to prioritize with a child or two in college especially when the risk might be one month, one year, or twenty years of care – or maybe never.

  The Compact design reverses today's LTC planning objections of too big, vague and costly. Reducing LTC planning to the need to protect ½ of assets creates a much smaller, clearly defined risk. And, because the risk is smaller, the remedy, LTCi, is more affordable. A policy covering the Compact Pledge for the couple described above is estimated to cost approximately $2900. For those with fewer assets, the cost would be even lower.

  By reducing the risk of LTC to a manageable level psychologically and financially, the Compact offers the LTCi industry the chance to finally break through the barriers that have held the market in check.

UNDERSTANDING THE PROPOSED NYS COMPACT FOR LONG TERM CARE

THE PROGRAM

Q. What is the NYS Compact for Long Term (Compact)?

A. The Compact is a public/private risk sharing program that changes how eligible New Yorkers plan and pay for long term care.

Q. How does it work?

A. The Compact has two parts. Part one, the Pledge; participants pay LTC expenses on their own. Part two, the Subsidy, the State joins in.

<u>THE PLEDGE</u>

Q. How does the Pledge work?

When a person is assessed as chronically ill under HIPAA definitions (the same used as LTCi benefit triggers), he agrees to pay a set amount (Pledge) toward the cost of his long term care. The minimum Pledge is ½ of his non-housing assets. The maximum Pledge is an amount equal to 36 times the monthly cost of a nursing facility in his region* (e.g., If the regional facility average charge was $6000, the maximum Pledge would be $6000 x 36 or $216,000). If he chooses the maximum, all his assets are protected. Otherwise, assets are protected on a dollar for dollar basis.

A participant completing his Pledge may use the qualified LTC services and providers of his choice. Qualified LTC services under the Compact are those defined in HIPAA, the same as is used in LTCi policies. Services received during the Pledge are paid at the private pay rate. Paid bills for qualified LTC services are applied against the participant's Pledge. When the total of paid LTC bills equals the Pledge amount, future qualified LTC service costs are subsidized. The participant now becomes a beneficiary.

* The regional nursing home rate is calculated from reported charges for both Medicaid and private services.

Q. When do people need to decide how much to pledge?

A. The Pledge is chosen when someone enrolls in the Compact. Compact enrollment occurs only if the individual is assessed to meet the HIPAA definition of chronically ill. This is the same definition used for LTCi eligibility (Assistance in 2 of 6 ADLs for at least 90 days or severe cognitive impairment).

Q. Are there any rules about how the participant pays for the LTC services that count toward their Pledge?

A. No. The Pledge can be met paying for services with personal or insurance dollars

Q. If a client uses insurance to cover his Pledge, how much of his assets can he keep?

A. All of them. It is not how much the participant actually keeps but what he has paid that counts. If a participant with $300,000 in assets pays his Pledge of $150,000 with LTCi, he may retain his full $300,000.

Q. Does the Compact require a special LTCi policy for the Pledge?

A. No. There is no special daily minimum, mandatory duration, specific inflation coverage, option limitation, or any other LTCi requirement that would set a Compact policy apart from any other TQ policy.

<u>THE SUBSIDY</u>

Q. How does the Subsidy work?

A. As a beneficiary, the State subsidizes the cost of qualified LTC services. In return, the beneficiary must pay a participation fee equal to 25% of his income and a co-payment of 10%. In addition, he is responsible for all his other living expenses including non-LTC health care costs. Providers delivering qualified services to beneficiaries received during the Subsidy are paid at a special rate (Compact Rate).

Q. Is the person receiving the Subsidy on Medicaid? Do they have to use Medicaid services and providers?
A. No. Any qualified LTC as defined under HIPAA is available whether Medicaid offers it or not and the beneficiary may use the provider of his/her choice regardless of Medicaid affiliation.

Q. Isn't this like the "dollar for dollar" coverage under the new partnerships?
A. Yes and no. Yes, it acts like "dollar for dollar" coverage and the incentives are similar, but the Compact goes further.

1) Only NY and IN Partnerships have limits to personal liability. That is, if you buy a certain amount of insurance, all assets are protected. On the other hand, the CA and CT Partnerships as well as the new programs proposed under the DRA require every dollar to be protected be matched by an insurance dollar. For example, except under NY and IN partnerships, a person with $300,000 in assets and a $200,000 home would have to exhaust $500,000 in insurance before being fully protected. The Compact sets limits. As a Compact participant, that person could protect all his assets (and more, if he had them) by covering the maximum Pledge. Today that would equal approximately $250,000.

2) Aside from asset protection, the reward for Partnership participants is Medicaid. Medicaid eligibility means limitations. Being forced to use Medicaid providers reduces options regarding not only who provides care, but what care is available. Income limits can be even more difficult. In NY, Medicaid clients in home care are allowed $692/month income if single and $900/month if married. Since few can live on that amount, many are forced to institutions.

3) Unlike current Partnerships, any TQ product can be used for the Compact. There's no special training, policies/applications/marketing materials to store and manage, contracts/rules to learn or additional agent certification.

Overall, the advantage of the Compact is that while it has the marketing value of government support and incentive of partnerships, it protects more for less, reduces operational overhead, and doesn't expose clients to the downside of Medicaid rules.

Q. You say the person enters the Compact when they are HIPAA eligible. Doesn't this give people permission to delay planning? Why would they buy LTCi? Why not just wait and pay the Pledge in cash?
A. Avoidance/denial is the primary barrier to any LTCi sale. Logic, incentives, education, and even personal experience appear to have little impact. Those who knowingly choose to risk half of their assets when they could protect everything for less than 10 cents on the dollar don't need permission from the Compact. The real question is "Does the Compact add something that might tip the scale?". Tougher Medicaid rules, Partnerships, and tax incentives help, but the approach that breaks through the logic barrier LTCi faces has remained elusive. MedAmerica believes the answer lies in rethinking LTC financing entirely.

- LTCi should be a common option like life or health insurance.
- LTCi should be seen as a rational financial tool sold on value not fear.
- Our clients should be able to know their exact LTC financial risk.
- LTCi needs a way to excite innovation and expand product potential

Q. Why would someone buy insurance coverage for the Compact over other choices?
A. See the attached sheet. The chart compares options for protecting (or not protecting) assets. As you can see, the best options include insurance. For $72,000 the 55 year old couple used in the example can protect everything they own plus 75% of their income.

Q. What are the LTCi sales opportunities of the Compact?
A. The top non-buyers' reasons (or excuses) are cost and value. Sometimes the cost of even modest coverage is more than the client can afford. More often though, it's the premium for what the client considers meaningful coverage that

is too high (Meaningful being a function of their risk tolerance, e.g., only unlimited provides real protection). The Compact addresses both situations.

Today, LTCi provides financial protection against the client's entire future LTC risk. As such, it's our obligation to ensure our client's protection has meaning. Selling $50,000 worth of coverage in a market where an average stay is $200,000 might not be appropriate. This limits who and what can participate in the LTCi market. The Compact expands it.

Under the Compact, a client still insures against the cost of LTC but only to the extent of his personal at risk assets. The questionable $50,000 in benefits policy transforms into protection for $100,000 worth of assets. Additionally, the lower premium might be the key to purchasing any coverage at all. The definition of meaningful coverage is altered and the potential buying market grows.

Q. What about new products?

A. The Compact offers many new product opportunities. Because the risk is a set amount, combo products could become even more attractive. Another idea might be coverage that wraps around the Pledge/Subsidy designed to provide larger benefits in the Pledge period and smaller benefits during the Subsidy to cover other expenses.

Q. Other opportunities?

A. What about new marketing techniques? Broadening the potential market to include lower level sales could mean lower premiums per sale. But it could also mean more sales with less effort. Affordability is the #1 sales challenge in both the individual and multi-life markets. The Compact allows agents to sell truly meaningful coverage at a price and value clients can understand.

ASSET PROTECTION PLANNING OPTIONS: COSTS AND SAVINGS

CLIENT: 55 year old married couple, both spouses purchase in NY. Assumed to need care at age 80.

COST OF CARE	$6000/MO	HOME VALUE	$200,000
.CASH ASSETS	$300,000	INCOME	$60,000

	SPENDDOWN	COMPACT WITHOUT LTCi BOTH SPOUSES	LTCi ALONE BOTH SPOUSES	NY PARTNERSHIP PROGRAM BOTH SPOUSES	COMPACT WITH LTCi BOTH SPOUSES
COVERAGE REQUIRED TO PROTECT ASSETS	N/A	$150,000	Unknown. (Policy will be right-sized at 3 yrs.)	$300,000 plus home. Only Total Asset options provide this protection.	$150,000
LTCi PREMIUM	N/A	N/A	1 Spouse $2095 2 Spouses: $4190 $6000/mo, 90 day EP, 36mo, 80% HC, 5% Compound No-Max	3/6/50: 1 Spouse: $1880 2 Spouses: $3760 4/4/100: 1 Spouse: $2550 2 Spouses: $5100 $210/day	1 Spouse: $1450 2 Spouses: $2900* $12,000/mo, 90 day EP, 24mo, 100% HC, 2X Max Inflation2
COST	Up to $500,000 ($300,000 Assets and $200,000 Home)	1 Spouse: $75,000 2 Spouses: $150,000 Out-of-Pocket	1. Spouse: $52,375 ($2095 x 25Yrs) 2 Spouses: $104,750 ($4190 Premium x 25Yrs)	3/6/50 1 Spouse: $47,000 2 Spouses: $94,000 ($1880 x 25Yrs x 2) 4/4/100 1 Spouse: $63,750 2 Spouses: $127,500 ($2550 x 25Yrs x 2)	1 Spouse: $36,250 ($1450 x 25Yrs) 2 Spouses: $72,500* ($2900 Premium x 25Yrs*)
BENEFITS (B) and RISKS (R)	(B) No premiums (R) Costs > Premiums or Assets (R) Medicaid benefit, provider and income rules	(B) Assets/Home protected (B) Private benefits/providers	(B) Assets/Home protected in most cases. (B) Private benefits/providers	(B) Assets/Home protected in most cases. (R) Medicaid benefit, provider, and income rules	(B) Assets/Home protected (B) Private benefits/providers
PROTECTED INCOME NH	Unknown	$45,000/yr**	N/A	$600/yr One Person $30,600/yr Two Persons	$45,000/yr**
HC		$45,000/yr**	N/A	$7900/yr One Person $10,800/yr Two Person	$45,000/yr**

* Benefit amount required to protect $75,000 is less than one year's coverage. Current products' minimum duration is 24 months. Premium shown approximates the premium of a one- year policy at 75% of 24 month policy.

** Income retained from $60,000 income after 25% Compact participation fee.