

Responding and Managing the Impact of COVID-19 “Ride the Wave or Wait It Out”

Long-Term Care Insurance Playbook



Overview

Assured Allies and Faegre Drinker have developed this *Playbook* for the long-term care insurance industry. Our *Playbook* provides insights, guidance, and ideas to manage the short- and medium-term impacts of the COVID-19 global pandemic. The *Playbook* also provides potential avenues for long-term care insurers to explore in the post-COVID-19 world that could change long-term care insurance forever. We believe that this once-a-century pandemic will have a long-lasting impact and that there could be a paradigm shift in which insurers, regulators, policyholders, and third-party vendors find initiatives where their incentives are aligned, providing better outcomes for all stakeholders.

The Impact of COVID-19

A public health crisis such as COVID-19 is very likely to have a significant effect on the health of older adults, even those who do not contract the virus. Vulnerable adults are those who often age in place with limited support systems and who are susceptible to quickly losing their ability to maintain independence.

For example, we anticipate that the American senior population will experience the following effects of the COVID-19 pandemic:

- **Accelerated deterioration of an existing medical condition**, resulting from, for example, missed medical appointments, breaks in treatment, postponed operations, limited access to clinicians, and interruptions in medication schedules.
- **Prolonged hospitalization and respiratory rehabilitation** for those contracting COVID-19. Any muscle and functional loss due to hospitalization may be significant.
- **Functional deterioration** due to reduced mobility, being confined to their homes, and not being able to sustain their normal daily routines or recreational activities.
- **Psychological deterioration (e.g., fears, stress)** due to imposed isolation, fear of being alone, the stress that comes from listening to the media, etc. COVID-19 has created real isolation for many Americans, in particular, the elderly. A recent Assured Allies survey of hundreds of aging adults showed that older, more dependent subgroups exhibited significant negative health effects associated with isolation.
- **Interrupted caregiving** is a natural outcome as both caregivers and care recipients are fearful of virus transmission. Home care agencies report 30%–50% reduction in home care client volume, across both paid and family caregivers. Without this vital support (e.g., food preparation and delivery, health checks, physical and mental stimulation and assessments, ADL and IADL help) deterioration in health status can come quickly. Moving to effective remote caregiving requires resources, a plan and expertise.

The following will likely impact the private long-term care insurance market in various ways, some of which may change both the long-term care delivery system and long-term care insurance for many years to come.

- **Fear of long-term care facilities:** Nursing homes and assisted-living facilities might be perceived as places to avoid in times of disease. The current crisis has only heightened concerns about the health risks of living in a senior-housing facility. Added to this, many of these facilities are not accepting new residents. Further, there has been extensive media coverage of the devastating impact of the virus on elder-care facilities.
- **Fear of home care:** Some seniors and their loved ones fear that bringing outside caregivers into their homes could increase their chances of contracting the disease.

The home care industry is working hard to prepare and strengthen the trust in their caregivers and procedures, but this takes time. Some caregivers are also unwilling to go into homes at this time and are being asked to backfill positions in facilities.

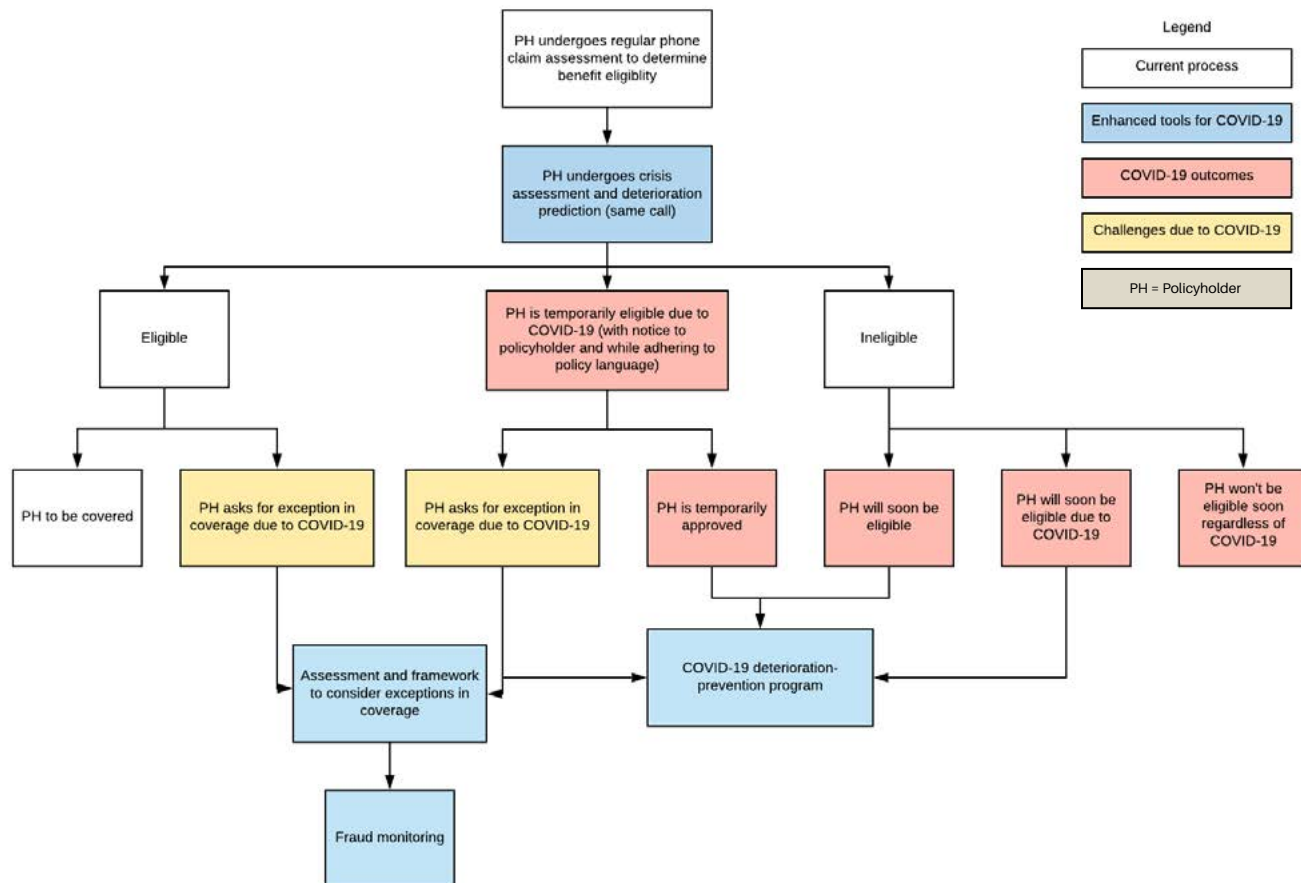
- **Lack of action due to uncertainty:** In times of uncertainty, when there is no clear plan, people tend to delay decisions — even if they are critical decisions or if delaying them could have significant undesirable consequences.
- **Increased adaptability of the senior population with technology:** The current pandemic has forced many people to embrace newer technologies in order to maintain connection, whether it's a videoconference with family members or a telehealth check-in with a primary care physician. We expect that increased acceptance of these technologies will lead to increased future utilization — in fact, we see a rise in requests for usage of Zoom videoconferences from insureds in their 80s.
- **Regulatory flexibility:** In an effort to respond to the pandemic, insurance regulators nationwide have imposed restrictions on insurers and have also recognized the value of certain policyholder-friendly ideas. Many of those ideas are aimed at interacting with policyholders virtually. In some instances, regulators have confirmed that these kinds of ideas will not be considered violations of state unfair trade practices or anti-rebating laws. This sentiment seems likely to persist, particularly with respect to what are perceived to be value-added services.

Claims Administration Issues

Insurers need to balance policyholder flexibility, with contract language, pricing and regulatory requirements. This calls for careful evaluation of the issues and understanding the precedents that are being set. We have captured some of the most common issues facing insurers today:

- Inability to perform in-person assessments
- Inability to obtain medical records
- PR risks associated with claim denials or delays
- Prompt pay compliance under pandemic restrictions
- Returning policyholders to the confines of the policy language once the pandemic concludes, and the proper way to achieve this without claim, which could create regulatory or litigation risk

We believe that a structured decision-making framework is needed to ensure consistency and to minimize ad-hoc decision making that could potentially lead to future litigation. **We will help devise a pragmatic, policy-driven approach to provider eligibility issues taking into consideration the constantly changing care environment.** Most important is to utilize a framework to ensure consistency and to clearly communicate decisions to policyholders to avoid any expectation that contract language will be administratively changed in the future. The following diagram proposes a claim adjudication process in light of COVID-19:



During this time, the standard benefit-eligibility process should be augmented with tools such as a crisis assessment and a deterioration-prediction analysis. These will identify the paths for different types of claimants. This data-driven approach should also help to prevent a surge of claims in the future. Carriers should look to develop predictive models to monitor the most vulnerable policyholders and to adjust strategies and tactics as needed, both in the short- and long-term.

For example:

- Continuation of check-ins to ensure resolution of problems and identification of opportunities to prevent further deterioration
- For hospitalized policyholders, creating a discharge plan with the family to ensure optimal post-acute care and rehabilitation

Provider Issues

Long-term care insurance policies provide detailed definitions of providers and policy provisions. These were well thought out at the time the policies were created but most likely never contemplated a pandemic. With a focus on social distancing, concerns about caregivers coming into claimants' homes and residing in a facility, insurers and claimants are both challenged. These are not easy issues for insurers to navigate due to contract variations and differing claimant conditions. Some of the most common issues being faced are the following:

- Use of informal caregivers and how to accommodate their use in light of policy language
- Paying family and spousal caregivers during times when home care workers cannot or will not go into homes
- Administering bed reservation provisions when a claimant does not want to temporarily reside in a facility
- Approving facilities that may not have a current license
- Administering policies to account for communities not moving patients through the care continuum as they normally would
- Providers who are administering care that may not be precisely in line with their licensing during the pandemic
- How to respond to policyholders who are established in a given place afterwards

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Policyholder Administration Issues

At this time, ensuring that policyholders maintain their coverage and have lapse protection is critical. Most long-term care insurance policies have grace periods, which provide some protection. States are beginning to legislate further protection, with extended grace periods. Not only does this impact the payment of premiums, but it can also impact the implementation of rate increases. Operations and

compliance areas should work closely in regard to these decisions. Some of the key issues are as follows:

- 50-state compliance with restrictions on grace periods and policy lapses (in some cases mandated by state legislatures or insurance departments)
- Compliance with requirements on repayment of back premiums when moratoriums on lapse expire
- Rate increase implementation issues, including implementation of rate increases in conjunction with regulatory directives on payment of insurance premiums
- Consideration of novel approaches to rate increase mitigation options, based on increased regulator willingness to consider creative options (e.g., policy buy-outs)

The implications of the pandemic on rate increase activity is unknown in terms of policyholder take-up rates as well as future rate increase requests and approval rates. This is why data and monitoring will be increasingly important.

Litigation Potential

It is important that carriers continue to focus on litigation management and potential additional exposures:

- Carriers need to implement protocols around communication and documentation to improve future position regarding potential litigation
- Proactively manage the claims process, to ensure that insureds approved during the pandemic are reassessed at the appropriate times
- Identify and prevent scenarios in which the pandemic may create circumstances conducive to claim fraud
- Focus on rate-increase-related implications, in light of premium payment guidance from states

Conclusion

It is early to know how policyholders will react to the pandemic. For example, will there be an increasing shift toward home care as people view facilities as places where diseases spread quickly? Will there be a shift toward facilities as people experience loneliness and isolation while stuck at home? How do you predict and then balance these competing forces?

With the onset of COVID-19, the need to implement fundamental strategies and tactics is more relevant than ever. The core of what needs to be done is to identify and manage unforeseen and/or hard-to-detect risks that can alter claim activity. Implementing intervention strategies to reverse or stem deteriorating situations and to enable continuation of support for aging in place is critical. For example:

- Support early-stage dementia insureds with confusion, stress and uncertainty to prevent family burden that could lead to rethinking the desire to age in place with the disease

- Screen for isolation, depression and anxiety and intervene appropriately
- Create remote caregiving plans (when appropriate) and educate caregivers on safe interactions and how they can assist remotely

The onset of COVID-19 has turned a spotlight on the services that Assured Allies and Faegre Drinker can provide to the long-term care insurance industry. We believe that this *Playbook* will help insurers manage both the short- and long-term impacts of the pandemic. While we cannot stop or change the course of this pandemic, we can offer carriers the ability to proactively learn more about their policyholders and to ensure that their processes mitigate the potential for litigation, so that carriers will be better prepared to address unexpected events. Further, we foresee certain carriers and/or TPAs that are able to navigate the pandemic effectively and seize opportunities created by the pandemic will be better positioned for future success in managing their LTCi block.

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