Getting the Hybrids on the Road

Tony Laudato, FSA, MAAA, is Vice President of Partnership Solutions with the Hannover Re Group. He joined the Hannover Re Group in July 2012 and is currently leading the Partnership Solutions Group that supports insurance carriers' products, web, mobile and digital strategies that are focused on the demands of today's consumers and reaching new markets. In addition to working with carriers, the specialized team works with emerging, high tech distribution companies and InsurTech players, vetting their technology and helping them gain access to insurers that want to modernize the life insurance sales process, products, risk assessment, client engagement and back-end analytics.

The continued decline of standalone long-term care policies seems inevitable, and the life insurance gap among Americans continues to widen. Hybrid policies offer an obvious solution, and are becoming increasingly popular - but the right approach will be needed for insurers to fully cast off their skepticism

Recent months have seen a steady drip of bad news from life insurers, as firms have had to boost their reserves to the tune of billions in an expectation of soaring payouts for long-term care policies. October's update from Unum followed to tune of Prudential's in August, and by the time this is published more will likely have followed.

While troubling, the news simply confirms something that sums have made fairly obvious for some time: the old long-term care market – once so popular as a means of funding assisting living, nursing home and home care services – is now more of a headache than an opportunity for insurers.

The market is now having to significantly review assumptions made long ago when the first such policies were written, during a period when interest rates and projected lapse rates were higher and health care expenses lower. The to say the equation has shifted would be an understatement - healthcare costs for assisting living have almost doubled over the last fifteen years, while one in two Americans now suffers from chronic illness.

The accompanying increased premiums have decimated the industry. Many providers have withdrawn from the line altogether, and those that remain are having to be increasingly restrictive with their policies.

Axing an entire revenue stream, however - especially one that was once so lucrative - is a risky choice to make in a situation where demand is clearly not the problem. The need for long term care is going nowhere.

The current gap in the long-term care market is more circumstantial than reflecting anything fundamental—the financial crash and its aftermath engendered a lack of product innovation, with the long-term health care insurance market suffering from this as providers scrambled to de-risk their portfolios.

As such, the market is increasingly starting to turn to hybrid policies. Hybrid policies work by combining the two types of coverage – life insurance and long-term care – and allow for payouts based on accelerated or early payments of a death benefit. Importantly, the combination also allows insurers to stabilise the risk profile of the product, and provide a sustainable means of growing both the top and bottom line.

These policies are designed to make long-term health care insurance profitable again, and in doing they may also present a way to partially tackle another problem—the decline in the life insurance market. The number of Americans holding life insurance has been falling steadily for decades and is now at a record low, with about half of US households now going without. While this problem is concentrated among younger Americans – not the traditional market for late life health care – research shows that one of the main reasons younger Americans don't buy life insurance is a lack of flexibility and innovation in the product itself. Long term care is much cheaper the younger you are, and so the hybrid policies could well have more appeal here.

The younger market aside, there is every sign that these policies could grow very popular among middle aged and older Americans. As opposed to more traditional stand-alone policies, hybrid policies provide an option that isn't 'use it or lose it' with regard to benefits—with hybrids there is still a death benefit even if the LTC benefit isn't used. For wealthier clients that have accumulated financial assets throughout their life, hybrid policies additionally provide a way for them to protect those assets from the high cost of late-life care should it be needed.

The current gap in the long term care market is more circumstantial than reflecting anything fundamental—the financial crash and its aftermath engendered a lack of product innovation, with the long-term health care insurance market suffering from this as providers scrambled to de-risk their portfolios. Hybrid solutions, however, offer a solution to this impasse that comes with a far more favourable risk profile, will genuinely benefit all parties involved, and could help breathe life back into the ailing sector.

der the no-fault statute,...the Insurance Law supersedes the provisions for interest contained in CPLR 5002, 5003 and 5004 (*Gov't Emp. Ins. Co. v. Lombino*, 57 AD2d 957, 394 N.Y.S.2d 898 [1977]) The policies of encouraging prompt payment of claims and reducing litigation outweigh limits on interest found elsewhere. The interest rate on No-Fault actions is intentionally punitive, with severe penalties in order to encourage prompt adjustment of claims. As such, the rate of interest is not reduced simply because the claim has been reduced to a judgment. While such claims remain overdue, they accrue interest at two percent per month. As such, plaintiff is entitled to a declaratory judgment recognizing same.

Comment: As an interesting side note, this case had gone up to the Appellate Term, which had ruled that post-judgment interest should accrue at the statutory rate of 9%, not the "no fault" rate of 24%, but stated that this was an "advisory" opinion only. Supreme Court declined to follow it.[IA]

2019 NY Slip Op 50241(U)
Decided on February 25, 2019
Supreme Court, Queens County
Love, J.

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the Commissioner would dispose of the matter. Thus, Boas knew in December 2014 that his putative attorney's alleged assurances were not true, but his certification offered no explanation why he thereafter assumed the same attorney would actually file a response to the order to show cause or why he took no steps to ensure the attorney did so.

The Commissioner's findings support his determination that Boas failed to demonstrate excusable neglect for his failure to respond to the order to show cause. Mere carelessness or lack of proper diligence on the part on an attorney is ordinarily not sufficient to entitle his clients to relief from an adverse judgment in a civil action.

Here, Boas's supporting certification did not demonstrate any meritorious defenses to the order to show cause and, as the Commissioner found, Boas failed to provide sufficient details concerning his actions, and those of his putative attorney, to demonstrate a mistake compatible with due diligence.

Boas failed to demonstrate the Commissioner's findings and decision denying the motion to vacate were made without a rational explanation, inexplicably departed from established policies, or rested on an impermissible basis.

Given the substantial deference the court must afford an agency's choice of remedy or sanction and all of the circumstances found by the Commissioner in the final order. The penalty imposed for Boas's 1011 violations of the Act occurring over a four-year period, was not so disproportionate to the offense as to be shocking to one's sense of fairness. The order was affirmed.

ZALMA OPINION

Boas, a convicted felon, who pleaded guilty to having billed insurers for 1011 services never performed only to be given probation failed to deal with the administrative proceeding. As a result of his sloth, perhaps encouraged by a charitable sentence after his conviction, finds himself obligated to pay the state more than $500,000, an almost adequate punishment for such a major fraud, who should have spent time in prison.[IA]

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As well as potentially re-opening the long-term care market, the policies could simultaneously help the market reverse the downward trend in life insurance. Evidence suggests that one of the main barriers for uptake of life insurance among today's customers is the lack of flexibility and control associated with traditional products. By addressing this, hybrid policies promise to turn two problems into a new and untapped market for the sector.

As the history of the aviation industry teaches us, hyper-engineering is the best form of reassurance.

As a result of all these favourable factors, hybrid policies are on the up, with over 260,000 such policies sold last year. However there is still a long way to - uptake has been delayed and stymied by an understandable scepticism on the part of the industry, still reeling from the impact of the earlier miscalculations and erroneous assumptions that continue to cause losses today. While firms are beginning to warm to the opportunities afforded by the new approach, skepticism still lingers.

If the long-term care market is to enjoy a hybrid revival and avoid the mistakes of history, carriers will need to ensure that the design of such products is right, and certainly more robust and well-founded than those of the previous era of stand-alone life insurance products. As the history of the aviation industry teaches us, hyper-engineering is the best form of reassurance. Given the nascent stage the new product is at, getting it right requires a specific set of underwriting skills, a granular understanding of the pricing and risk modelling involved, a deep expertise in area of mortality rates, and new reinsurance structures to support risk transfer. For those that can get it right, the rewards will be significant.[IA]