



Disability Income Trends

Steven Clayburn, FSA, MAAA
Senior Director & Actuary
American Council of Life Insurers
steveclayburn@acli.com

Morissa S. Fregeau, Esq.
Counsel
Genworth Financial
Morissa.Fregeau@genworth.com



Topics

- Discretionary Clauses
- Offsets
- Health Reforms (Mental Health Parity/Alcohol & Narcotics Exclusions)
- Pre-Existing Conditions
- Others (External Review and Genetic Testing)



Goals for Presentation

- Outline each of the issues
- Provide a legal update on what is occurring around the country
- How this could affect disability income insurance, from an actuarial point of view



Discretionary Clauses

- Established by the Employee Retirement Income Security Act of 1974 (ERISA)
- Common feature in group insurance plans
- ERISA claim administrators are obligated by law to make determinations based on uniform standards.
- ERISA assures an appeal process that is fair, independent, and protects the consumer.
- Several states have begun to focus on discretionary clause language in disability income policies (IL, UT, NH, NJ, NY, CA, MI).



Offsets

- Offsets serve to maximize the employee's net protection in the event of disability without resulting in overinsurance.
- Overinsurance creates a financial disincentive to return to work.
- The practice of estimating offsets during the course of a claim is a means to give claimants an incentive to apply (if applicable) for all other sources or income to which they are entitled.
- CA has attempted to use underground regulating to prohibit offsets and the estimating of offsets.



Health Reform (Mental Health/Alcohol Exclusions)

- Federal and State regulators are mandating coverage for all mental health benefits be equal to other medical insurance benefits.
- Similar issue with states eliminating the alcohol & narcotics exclusion provision from accident & sickness policies.
- Problem – disability insurance is often included, inadvertently or advertently, in these bills.
- Various states CO, IA, MN, OR, TX, IL to name a few have been active in these issues.



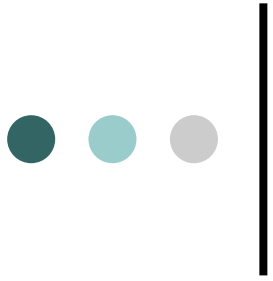
Pre-Existing Conditions

- These provisions exclude coverage of certain losses involving disability due to a pre-existing condition.
- Pre-existing conditions protect against adverse selection, in the absence of medical underwriting.
- These exclusions are essential to insurers attempting to set rates by improving the actuarial predictability of the costs they will incur in providing coverage.
- NY has recently changed its definition of what pre-existing conditions mean. NV and SD have differing interpretations as well.



Other Recent Issues

- External Review of Disability Income Claims (NH)
- Genetic Testing – Definition of genetic testing: medical history (ID)



Questions?