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# Independent Providers

## A CHALLENGE IN LONG-TERM CARE CLAIMS MANAGEMENT

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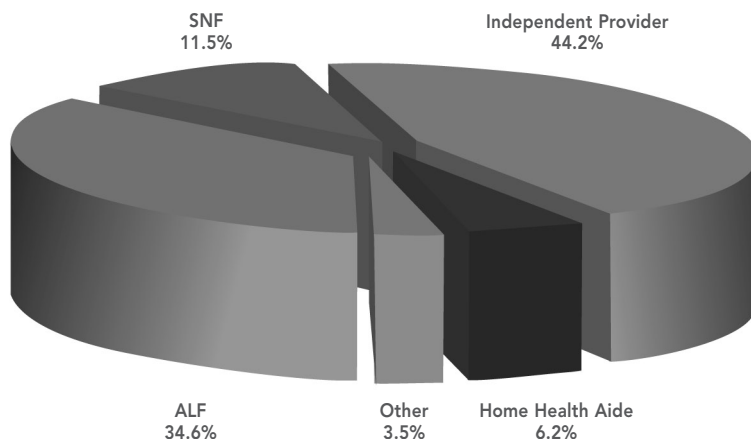
**G**rowing in popularity, coverage of Independent Provider services under long-term care insurance plans providing home health care benefits presents unique challenges—from product design to claims practices. For claimants in remote areas for whom home health care agencies are not available, for those with unique needs for whom continuity of care by a single individual is important, for others with limited benefits and a need to carefully control out-of-pocket expenses, the ability to receive eligible care from an Independent Provider can mean the difference between remaining at home or transitioning to a nursing home setting.

An Independent Provider, or an IP, is a person hired directly by the claimant or family to provide home care services. The IP is typically not licensed or certified, often has no formal training to provide personal care services and is employed by the claimant, not the insurance company. Because they are employed directly by claimants and their families, their hourly rates are usually lower than those charged by agencies providing primarily custodial care services. A cost-effective IP can save

claimants considerable money, through minimizing out-of-pocket expenses or by helping to extend limited LTCI benefits. If claimants' needs are such that they do not incur expenses that meet or exceed their maximum daily benefits, the use of an IP may be cost-effective for the carrier, as well.

Long-term care insurance plans that cover the services of IPs have usually placed a wide range of conditions on that coverage. Some cover IPs only under Alternate Plans of Care provisions, subject to the carrier's approval. Others, some because of state mandate, impose no requirements on the IP's training or experience. Still others will cover the services of an IP, but only if they are reasonably satisfied that the individual has been adequately trained and/or has sufficient related experience to ensure that safe and effective care can be provided. Most, but not all, exclude coverage of services by family members, whether as IPs or otherwise. All plans providing benefits on an expense-incurred basis, however, have in common a requirement that claimants provide documentation to substantiate that services have been provided and expenses incurred and paid for the care by an IP.

*Paid Claim Months*



### IP COVERAGE IS EXTREMELY POPULAR

Under comprehensive long-term care plans that provide IP coverage, as many as 45 percent of all claims and as much as 60 to 80 percent of home health care benefits can be for IP care. The following information comes from Long Term Care Group's claims database for one of its largest administrative clients, and illustrates how paid claims were distributed during an average month in 2007. This comprehensive LTCI plan provides IP coverage under its Alternate Plan of Care provision.

The reasons for the popularity of IPs are clear:

- Hourly rates may be as much as 30 to 50 percent lower than for agencies.
- Daily or monthly benefit amounts go further.
- Claimants can choose friends or neighbors to provide care.<sup>1</sup>

## CONFIRMING PROOF OF LOSS CAN BE DIFFICULT

When benefits are provided on an expense incurred basis, the claimant must present documentation to confirm that the expense has been incurred and paid or, in the case of an assigned benefit, that a charge has been made and assignment has been accepted by the caregiver.

- In the absence of an assignment of benefits, requiring that claimants provide carriers with cancelled checks or other bank-produced proof that a caregiver has been paid for his services is an effective means of ensuring that care has not been provided in trade (e.g., room and board in exchange for care) and that the expense has not been inflated by the claimant beyond the amount actually paid to the caregiver.
- Assignment of benefits has a powerful sentinel effect. The understanding by both claimants and their caregivers that directly paid caregivers will receive a 1099 tax form at year's end has proven to minimize problems with inaccurate reporting of time/expense by claimants and families and helps to ensure that caregivers understand their role in accurately documenting the care they provide and the charges they make for that care. Since the use of an IP puts a claimant into the role of employer, using assignment simplifies the process considerably.

## THE INCIDENCE OF FRAUD AND ABUSE IS HIGHER THAN FOR CARE BY LICENSED CAREGIVERS

Unfortunately, fraud may be committed by claimants, by the providers or by the family members overseeing the care and managing the claim. Fraudulent activity may be occurring with or without the claimant's knowledge. Carriers must be alert to signs of fraud when evaluating all long-term care claims, but there is an increased potential for fraud and abuse when care is provided by IPs. Consider the following reported scenarios, some commonly occurring:

- Caregiver is living with claimant, reporting 24-hour care. Claimant submits invoice for 24-hour care, but is actually receiving a portion of his compensation from the caregiver in the form of room and board.
- Claimant's family asks caregiver to sign timesheets in advance, and then uses pre-signed timesheets to submit invoices for care when the caregiver was actually on vacation or after caregiver's services had permanently ended.
- Caregiver is asked to sign blank timesheets, so is unaware that claimant is submitting charges for reimbursement well in excess of what the caregiver has actually been paid.
- Claimants, not caregivers, report services provided, often inflating or completely misrepresenting the actual services—for example, reporting total ADL care when actually receiving only homemaker services from the IP.
- Claimants submits charges for care that is actually provided to other family members (who do not have coverage or whose benefits are inadequate to cover all the expenses), but submitting invoices under his own name.
- The caregiver is actually disabled (discovered via Social Security Disability Income search), yet claims to be providing physical assistance to the claimant.

Since the use of an IP puts a claimant into the role of employer, using assignment simplifies the process considerably.

<sup>1</sup> Plan design will dictate terms and conditions of IP coverage. Not all plans will allow unlicensed or uncertified caregivers; others will place few or no restrictions, other than to exclude family members as caregivers. State law often bears on this provision.

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**Carriers must work hard to communicate their concern for claimant safety and vulnerability by encouraging caregiver relationships that are best suited to individuals' needs. ...**

## MONITOR TO ENSURE ELIGIBLE CARE IS IN PLACE

Once a claimant has been approved for benefits, carriers must employ methods for monitoring care until formal reassessment to ensure that eligible care, i.e. the care for which benefits were approved, remains in place. When such care is provided by licensed home health care agencies, record keeping is more reliable and reasonably standard. While some may need clarification as to a carrier's specific requirements, home care agencies will generally comply with a need for regular documentation of services provided. IPs, who are independent contractors, usually have no license or certification at risk when performing their duties as caregivers.

The carrier must establish a means by which the caregiver and claimant can report care, hours and expenses. Daily notes are critically important in order to ensure that care provided is consistent with the approved Plan of Care, so carriers must do all they can, in conjunction with offering coverage of IP care, to create a reporting process that provides reliable data. Carriers may consider providing claimants with preprinted forms on which to submit an itemization of services, hours and cost and provide written instructions for proper completion. By including a preprinted date range on the forms, carriers minimize the potential that claimants will create a single timesheet, and then submit copies week after week.

## COVERING IP CARE WARRANTS UNIQUE CLAIM MANAGEMENT PROTOCOLS

The typical long-term care claimant is elderly, often with some form of dementing illness or severe functional impairment. Consider the following:

- By definition, a person who has been deemed cognitively impaired such that he/she must be supervised for safety is not competent to manage the employer/employee relationship when an IP has been hired to provide care.
- Does the cognitively or significantly functionally impaired claimant's vulnerability present an increased risk of victimization? Is the family actively involved in the care and in monitoring the IP caregiver?
- Because they are not licensed or certified and are not employed by a licensed entity, IPs operate without any regulatory oversight,

so the burden of managing quality of care and record keeping falls to claimants and families. Is there an able family member available and close at hand that is willing to assume this responsibility?

- Does plan language give the carrier the option to limit coverage to licensed agencies or to licensed individuals if it determines that an IP is not appropriate and to revoke previous approval of an IP if the claimant proves unable to adequately manage the plan's requirements or if fraud is suspected?
- A conflict of interest exists when a claimant's legal representative wishes to act as a paid IP caregiver. That individual then acts as both employee and employer, paying him/herself, and then claiming reimbursement. There is no objective reporting in such a scenario and represents an inherent conflict of interest. To the extent plan language permits it, consider not approving coverage of an IP who is also the claimant's legal representative.

## CLAIMANT SAFETY IS A COMMON GOAL FOR THE CARRIER AND FAMILIES

Carriers must work hard to communicate their concern for claimant safety and vulnerability by encouraging caregiver relationships that are best suited to individuals' needs and which consider their support systems (able spouses, willing children, etc.). Claimants and families must understand their role as employer, and not just the freedom, but also the responsibility that role brings.

- Care by IPs is attractive to claimants and increasingly demanded in the long-term care insurance market. In addition, the market strongly demands this benefit; to remain competitive, LTCI carriers must continue to offer it. But they must do so with an understanding of both the benefits and risks of this popular benefit, and they must spend the time and effort to plan for and manage this special benefit effectively and efficiently. Being cognizant of their ethical obligations to the unique and vulnerable population they serve, LTCI carriers can design products and develop administrative practices that meet all the challenges of offering IP coverage. ■