Can Improved Longevity Affect Life Insurance Policies?

Trusts & Estates

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Tue, 2016-04-12 16:01

In 1977, epidemiologist Richard Peto from Oxford University posed "the Elephant Paradox." Peto theorized that a biological protective mechanism prevented cancer in elephants. Elephants are 100 times larger than humans. Therefore their cells have replicated 100 times more than humans, and each replication is a chance for a cancerous mutation. According to Huntsman Cancer Institute's oncologist Dr. Joshua Schiffman, "They (elephants) should all be dropping dead of cancer and going extinct. But they have less cancer (than humans)."[1]

If scientists could understand why elephants don't get cancer, they could control or eliminate cancer in humans.This resultingincrease in longevity would affect all aspects of insurance and investments.Financial and estate planning strategies would need to be re-evaluated.

Fortunately, scientists did solve the mystery in late 2015.Elephantshave "...40 copies of genes that code for p53, a protein well known for its cancer-inhibiting properties."[2]In comparison, humans have only two copies of these genes.

According to oncologist Sir David Lane,(recipient of the Cancer Research Lifetime Achievement Award), p53 is "the Guardian of the Genome" (Genome is the genetic material of an organism).Scientists are replicating p53's ability to kill errant cells.The goal: further reduce cancer's incidence and death rates. In addition to the discovery of p53, other strides have been made in cancer treatment.According to the National Cancer Institute, cancer mortality has decreased 1.5 percent each year for the past nine years.[3]

There's a way to take advantage of the upcoming leaps in longevity: It's called "in-force policy management."

Negotiation for Existing Policyholders

When life insurance product profits exceed expectations, insurers keep the savings and create new versions of products with better pricing based on the better mortality of the initial policyholders.

Why not reward the current policyholders who created the value?If scientists are on the cusp of substantially increasing lifespans, wouldn't it make sense to position clients' life insurance portfolios to take advantage of the lower costs associated with longer longevity by using in-force policy management?

The Impact of Longevity

Even though each situation may be different, consider a 65-yearold male who obtained an institutionally priced policy in 1997 with the potential for inforce policy management specifically for the ultra-high-net-worth marketplace.The $2 million face amount policy was designed to have a non-guaranteed 8 percent net rate of return with a premium outlay of $85,985 for 10 years.During the ensuing years, the client's life insurance advisors were able to negotiate with the insurer, and the policy experienced six cost/expense reductions.As a result, the annual premium was lowered to $74,065 for 10 years—a 14 percent reduction.

Ask For Examples of Lower Negotiated Costs

Insurers produceinforce ledgers (IFLs)for their in-force policies.The IFLs contain annualized charges for policy expenses, premium loads and cost of insurance charges.Advisors should ask their clients' insurers for examples of original "as sold" illustrations along with current IFLs for the same insured, with the same insurer showing lower costs compared to the original illustration.Why are these lower costs important? Every dollar that your client doesn't pay in cost of insurance charges is a dollar that he doesn't need to pay from his accumulated cash value or in additional premium.

Whole Life Insurance

The internal costs of insurance charges in whole life insurance aren't disclosed.You can't manage what you can't measure. And if you can't measure it, you certainly can't negotiate effectively. So it's impossible to negotiate with whole life insurance based on longevity.

Benefit to Advisors

Every dollarsavedin cost of insurance charges is a dollar that doesn't need to be paid.This creates funds to be invested elsewhere.The entire constellation of advisors benefit from lower costs based on longer longevity.Lower costs mean more funds available to implement additional planning and investment solutions.

Implications for Fiduciaries

Several sections of the Uniform Prudent Investor Act (UPIA) mention "costs" and "diversification."These requirements are important as we look to the future of healthcare and the associated improvements in mortality.

According to Barry Flagg, a member of The Best-Practice Standards for Life Insurance Stewardship task force formed by the Financial Planning Association (FPA) and The FSP Fiduciary Standards Committee and the CFP Boards Disciplinary and Ethics committee,"fiduciaries, trustees have an undisputed duty to incur costs that are reasonable appropriate."[4]Some insurance products have guarantees, some products have a history of lowering costs and others have a history of increasing costs. The duty to incur only costs that are reasonable and appropriate if they're not guaranteed is undeniable.The fiduciary is responsible for making choices regarding the stability of those costs.All being same, a history of level cost or decreasing costs is appropriate.

Section 3 of the UPIAhighlights the importance of diversification to reduce risk.Should a large life insurance portfolio contain policies that will benefit as mortality improves?

UPIA focuses on investment costs, "incurring costs that are appropriate and reasonable."[5]Is it reasonable to assume that technology and science will prolong life, and fiduciaries should have a prudent process for looking to the future to "incur costs that are appropriate and reasonable"[6]as mortality improves?

Fiduciaries are charged with knowingthat, "wasting beneficiary's money is imprudent,"[7]and they're "obliged to minimize costs."[8]So if they're trustees of trusts containing life insurance policies, perhaps they should investigate whether they can reduce costs based on the improved longevity statistics of their clients.

According to Robert Adler, an attorney at Adler & Adler, PLLC in New York:"Trustees do not have an obligation to always be correct in their decision making, but, they do have aduty to follow a prudent process for evaluating issues, including costs and they have a duty to document that process. Prudent trustees should implement a process to evaluate all life insurance policies where costs can be excessive particularly in light of the current environment where insurers are increasing charges on some policies and reducing charges on other policies due to improvements in longevity."[9]

Endnotes

1.Joshua Shiffman, "How Elephants Crush Cancer," Science Magazine (October 2015).

2.JoshuaSchiffman, et. al., "Potential Mechanisms for Cancer Resistance in Elephants and Comparative Cellular Response to DNA Damage in Humans,"*Journal of The American Medical Association*(Oct. 8, 2015).

3.National Cancer Institute, American Cancer Society, Center for Disease Control " Annual Report to the Nation on Status of Cancer, p. 5.

4.Email from Barry Flagg to Steven Zeiger on Feb. 29, 2016 at 5:13 pm.

5.Uniform Prudent Investor Act (UPIA) Section 5 p. 13

6.UPIA Section 7, p. 15

7.Ibid.

8.UPIA National Conference of Commissioners of State Laws. Approved by the ABA February 1995. *Supra*note 5.

9.Email from Robert Adler to Steven Zeiger on March 31, 2016, at 9:03 pm.

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