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Life, Disability and Long-Term Care Insurance

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Advances in genetics present policymakers with difficult challenges regarding the appropriate use of genetic information for insurance. While 45 states prohibit or restrict the use of genetic information as criteria for some forms of health insurance, only 17 states have addressed the use of genetic information for life, disability and long-term care insurance coverage. Although states almost uniformly agree that the use of genetic information for health insurance should be restricted in some fashion, the debate over the use of genetic information for other lines of insurance that guard against unexpected risks to health and life is just beginning to evolve.

State Genetics Policy for Insurance

Genetics policy for life, disability and long-term care insurance may rest on the underlying question of whether genetic information is an appropriate criterion to accept or reject an application for insurance or to assign individuals or groups to classes based on specific characteristics. This process, known as underwriting,

Life Insurance: financial security for beneficiaries upon the death of the policyholder.

Disability Insurance: short-term and long-term wage replacement for injured workers.

Long-term Care Insurance: care and support for people who require assistance to perform basic activities of daily life.

differs considerably between group markets, which use broad rating factors, and individual markets, which focus on personal characteristics—including health information. Where only 10 percent of health insurance is individually underwritten, 60 percent of life insurance, 40 percent of disability insurance and virtually all long-term care insurance is in the individual market. Therefore, personal genetic information may be more likely to factor into coverage for life, disability and long-term care coverage than health insurance.

Advocates for restrictions in these lines of insurance argue that insurers could force individuals to undergo genetic tests and may deny insurance or charge higher prices to applicants based on genetic characteristics. These groups fear the creation of a class of uninsured people who could be denied coverage not because they are sick, but because of their genetic make-up. On the other hand, insurance providers worry that limits on the use of genetic information for life, disability and long-term care could result in adverse selection—a financial advantage that applicants gain by making decisions based on risks known or suspected by them but unknown to the insurer.

What Is Genetic Information? All laws on genetics issues must identify the scope of “protected genetic information.” It is arguable whether genetic information is a fundamentally different type of medical information or whether all medical information—in some way—is genetic. Depending on the chosen

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definition, the law produces different degrees of protection for people seeking insurance and, as a result, various limitations on the business of insurance. Protected genetic information may include genetic test results of individuals or family members, family history, information about genetic testing—such as a bill noting the receipt of genetic services, inherited characteristics, or asymptomatic and presymptomatic conditions. State laws run the spectrum of definitions—from narrow to broad to sweeping. While very narrow definitions may provide fewer safeguards for individuals, those that are too broad may adversely affect the insurance market.

State Genetics Laws

Perhaps because policymakers consider life, disability and long-term care insurance less of a necessity than health insurance, existing state laws restrict rather than ban the use of genetic information for these forms of insurance. Arizona, Montana, New Jersey, New Mexico, Vermont and Wisconsin allow use of genetic information in underwriting for life insurance only with actuarial support that demonstrates significant differences in claims resulting from a particular genetic condition. Florida and North Carolina prohibit discrimination in life insurance based on the sickle cell trait, while laws in California, Kansas, Maine, Maryland, Minnesota and New York forbid insurers to compel genetic tests, but allow the use of genetic test results. The same protections that apply to life insurance in most states also address disability insurance, except that Florida—but not North Carolina—prohibits discrimination based on the sickle cell trait.

State legislative activity with regard to genetics and long-term care insurance has been more limited than with life and disability insurance, but Alzheimer disease, the most common neuro-degenerative disorder of the elderly, has generated increased debate over the use of genetic information for long-term care insurance. Alzheimer disease is linked to three genes for increased risk of early onset and one gene for increased risk of late onset, but genetic tests currently available predict poorly for individuals. Only Montana and New Mexico prohibit the use of genetic information in underwriting long-term care insurance unless it is actuarially justified. Colorado, Massachusetts, Oregon and Vermont prohibit insurers from requiring applicants to undergo genetic testing but permit the use of test results.

As of June 2002, legislation in Hawaii that would prohibit life, disability and long-term care insurers from requiring genetic testing was awaiting the governor's action. A majority of state legislatures have confronted the issue of genetics and life, disability and long-term care insurance to date, although not all have found that legislative action is necessary. With the number of genetic tests available continuing to grow, policymakers can expect to revisit or enter into the debate over the use of genetic information in life, disability and long-term care insurance in the years ahead.

Selected References

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