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Trustmark 

# The Tri-Agency Proposal: Is the world of supplemental health products changing?



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# Let's start with a show of hands...

- Who in here is familiar with the Tri-Agency proposal and what it means?
- How many of you sell...
  - Short-term medical?
  - Short-term limited duration plans?
  - Hospital indemnity?





# Agenda

- What is the Tri-Agency Proposal?
- What does the proposal mean for short-term limited-duration insurance (STLDI), hospital indemnity, and other fixed indemnity products?
- How does the proposal impact other supplemental health products?
- Impacts to our business and how you can take action

# The Tri-Agency Proposal

## What is it?

- Re-interprets how certain products qualify as excepted benefits under HIPAA and PPACA laws
  - STLDI & other fixed indemnity products
- Issued by 3 federal government agencies
  - DOL, DOT, HHS (tri-agency)
  - Proposal issued 7/7/2023
  - Comments due 9/11/2023
  - Final rule still pending



# The Tri-Agency Proposal

## Where did it come from?

- Issued as part of “Bidenomics”
  - Biden-Harris Administration cracking down on “junk insurance”
- **Driving factor:**  
Concern of misleading consumers by bundling together STLDI and other fixed indemnity products as replacements for comprehensive health coverage
  - STLDI – pre-existing conditions & other exclusions
  - Hospital indemnity – limited benefits and other exclusions limiting reimbursements

# The Tri-Agency Proposal

## What is it looking to change?

- The coverage limit on STLDI from 3 years to 3-4 months
- Require stronger disclosures
- Only allow “per day” benefits on hospital indemnity and other fixed indemnity products
- Change taxability of supplemental health benefits

# Support and opposition to proposed rule change

The agency received 15,820 comments from a diverse set of stakeholders, both in favor of and against proposed changes

## Support changes

- Consumer advocates
- Patient advocates
- Providers (hospitals, physicians)
- Public sector unions
- Democratic lawmakers

## Oppose changes

- Insurance carriers
- National Association of Insurance Commissioners
- National Conference of Insurance Legislators
- Chamber of Commerce
- Republican lawmakers



# STLDI products

# Main impacts of the rule to STLDI products

**Short-term** = no longer than 3 months from original effective date

**Limited duration** = no longer than 4 months total including renewals and extensions

**Notices** – Notice of plan limitations must be prominent in plan language, contracts, and all marketing, advertising and application materials

# Hospital indemnity & other fixed indemnity products

# New interpretations fall into three main buckets

1. Definition of “fixed indemnity” benefits:
  - Can’t vary by treatment or complexity of illness
  - Must be on a “per day” (or other time-period) of hospitalization or illness
2. Clarifying language around independent “non-coordinated” benefits
  - Can’t design a hospital indemnity plan around an existing major medical plan
    - Easier to distinguish from comprehensive medical care
3. New disclosures from group plans and a re-write of individual plan disclosures

# Restricted benefits

- ICU or ER benefits (dependent on “severity” of illness)
- Medical equipment
- Transportation
- Office visits
- Ambulance
- Wellness
- Prescription drugs
- Surgery
- Diagnostic tests



# Timing

- Changes to hospital indemnity plans are for both new business AND in-force business
- In the proposal draft, some time is allotted for updating in-force policies
  - Expected to change by 2027 (plan years beginning 1/1/2027)
- New business - changes applicable 75 days after the rule is finalized

# Taxability

- Proposal adds “clarification” around treatment of benefits from fixed indemnity plans
  1. Pre-tax plans (HI, CI, Accident) - all benefits treated as taxable income
  2. No offset for medical expenses incurred in connection with the loss
  3. Benefits subject to full wage taxes (FICA, FUTA, income tax)
    - More difficult administration
- Takes effect immediately upon date of rule implementation

# Other supplemental health products

# Accident & critical illness

- Accident – rule doesn't apply; “accident only” is an explicitly excepted benefit
- Critical illness/Specified Disease

**More changes could be coming** – departments requested comments on these questions:

1. With HI severely limited, will marketing shift to making Specified Disease the new “junk insurance?”
2. Additional protections/clarifications to help consumers understand coverage and why it's not comprehensive medical coverage?
3. What are typical plan designs? How are benefits payable (upon diagnosis/treatment)?  
Who are benefits payable to (policyholders/providers)?

# Impacts and expectations



# What can you expect?

## Potential impacts of the proposal

- Changes WILL affect our industry, but time will tell how much
- Shrinking pre-tax market
  - Benefits much more taxable
- Less employer-paid supplemental health

# Taking action

## What can you do?

- Contact your member of Congress
- Connect with agent trade organizations (IIABA)

## What is Trustmark doing?

- We're actively engaged with trade associations
  - American Council of Life Insurers
  - America's Health Insurance Plans
  - Self-Insurance Institute of America

# Key takeaways

- The Tri-Agency Proposal has big implications for the voluntary market
  - Major changes to hospital indemnity plans to come into compliance
  - Major changes on the taxability of pre-tax fixed income products
  - Questions around how to implement change to in-force plans
- Don't make any changes now – these are potential future scenarios
- Watch for updates in early 2<sup>nd</sup> quarter
  - Trustmark will communicate the final rule and its implications to our products when there is a significant update

**Thank you!**

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How'd  
we do?

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