

Business

But will you live to collect it?

Critical illness insurance a concern



James Daw
Money Talk

A type of insurance sold in Canada for nearly 10 years could lead to a dramatic tug of war around a policyholder's hospital bed.

But a lawyer specializing in trust and estate matters says he, for one, has yet to hear the thorny issues raised at professional seminars or conferences.

Critical illness insurance will provide a sum of cash in the event the purchaser suffers a stroke, heart attack, cancer, coma or any one of a couple dozen medical conditions.

Coverage is more costly than life insurance, and for some people it's more difficult to obtain. But the money from the policy may be used for any purpose, including a private nurse, additional living expenses or quicker access to care outside of Canada.

No money will be payable unless the insured person is eligible and the claim is made within the required time period. In addition, the person would have to live for 30 to 180 days after the illness is diagnosed.

The so-called elimination period may vary by insurer and by the nature of illness. Most illnesses have a 30-day elimination period. A claim for cancer may not be made for 120 days after the purchase of a policy.

More often than not, purchasers of critical illness insurance will have time to discuss these matters with their family, attorney or the future executors of their estate after becoming ill.

Unfortunately, not all policyholders will have the luxury of time, consciousness or mental capacity. And some financial ad-

visers have only awakened recently to the potential complications for those individuals.

Advisers are starting to urge their clients to talk these matters over with their lawyers, and to consider revising both their wills and living wills, known in Ontario as the power of attorney for property and the power of attorney for personal care.

The most dramatic complication is whether you would want someone to authorize extraordinary efforts to extend your life long enough to qualify for the insurance benefit.

Toronto lawyer Jordan Atin of Hull & Hull, which boasts it is Canada's largest estate-litigation firm, said yesterday there can be family conflict if an ill person has named one person to be his or her attorney for personal care and another person his or her attorney for property.

The person in charge of money matters may have a different point of view than the person responsible for the ill person's comfort and well-being. And while an attorney for personal

It's prudent to consider in advance the potential bedside complications

care may direct the attorney for property to dispense money for care, there is no reciprocal power to direct the attorney for personal care to try to keep a person alive, Atin said.

"I can tell you that I lead many presentations and seminars to lawyers and, quite frankly, I have never heard that raised, especially with respect to the dramatic situation of having the attorney for personal care having to keep the person alive to qualify for the insurance policy," said Atin.

So purchasers of critical illness should consider their wishes ahead of time, and meet with their attorney and their executor to state those wishes and outline responsibilities with regard to the policy, he advised.

Lorne Marr, an independent insurance broker from Mark-

ham, points out that life-and-death situations are not the only things that policyholders should consider.

Even when the ill person lives longer than the elimination period, the insurer may take time to satisfy itself that there is an eligible claim. For example, it may take time to verify if the claimant knew of the illness at the time of applying for coverage.

So Marr said it is important for individuals to consider how they will pay for those expenses for which provincial health insurance or other private insurance will not, and where the money will come from before the critical illness insurer pays the benefit.

"The key is to be as specific as possible with your instructions with your lawyer in terms of how you want to deal with matters if there are not funds for certain costs, and what life-prolonging methods you want used," Marr said.

Bruce Cappon of First Rate Insurance Inc. in Toronto notes that there are other technicalities that purchasers of critical illness insurance should point out to their family, attorney and executor.

These policies generally require a notice of claim within 30 days (unless there is a good reason for being late) and proof of claim within a year of becoming eligible. With some policies, no legal claim may be commenced more than a year after the policyholder was eligible to make a claim, he said.

Contracts give the insurer the right to order an examination while the person is alive and an autopsy after death. So, for the sake of your heirs, you might want to have your life extended — as well as the day of your burial or cremation.

James Daw, CFP, appears Tuesday, Thursday and Saturday. He can be reached at Business, 1 Yonge St., Toronto M5E 1E6; at 416-945-8633; 416-865-3630 by fax; or at jdaw@thestar.ca by email.