Indemnity vs. reimbursement LTC coverage and how it's tied to the HIPAA per diem

and HIPAA per diem update for 2023

Shawn Britt, CLU®, CLTC® - Director, Long-term Care Initiatives, Advanced Consulting Group

KEY HIGHLIGHTS

History of the HIPAA per diem for long-term care and the understanding behind the LTC HIPAA decrease for 2022, and large increase in 2023.

IRS Guidelines for tax free LTC benefits

Comparison of Indemnity vs. reimbursement benefits - and when the HIPAA per diem applies

How Nationwide products interact with the HIPAA per diem

Each year around November, the HIPAA per diem rate for long-term care (LTC) is announced for the upcoming year. This rate generally increases each year – and from its inception in 1997 through 2021, HIPAA only failed to increase three times. However, in 2022 the HIPAA per diem decreased for the first time.

Many have asked why the HIPAA per diem was reduced after a year of higher than usual inflation in the U.S. The answer may lie in the change of formula that calculates the HIPAA per diem. The passing of the Tax Cuts and Jobs Act (TCJA), signed into law December 22, 2017, brought a change to how fixed dollar amounts - such as the HIPAA per diem rate - are indexed for inflation.

In the past, the Consumer Price Index for all Urban Consumers (CPI-U) was used to calculate the HIPAA per diem for LTC. Under TJCA, the formula was changed to utilize the Chained Consumer Price Index (referred to as C-CPI or chain weighted inflation). With 2023 seeing a first time $30 per day increase, hope is that the new formula has taken root and will continue stable increases.

The chart below shows the history of the LTC HIPAA per diem over the past two and a half decades.

Historical HIPAA Per Diem Rates						
1997	$175		**2007**	$260	**2017 - 2018**	$360
1998	$180		**2008**	$270	**2019**	$370
1999 - 2000	$190		**2009**	$280	**2020**	$380
2001	$200		**2010**	$290	**2021**	$400
2002	$210		**2011**	$300	**2022**	$390
2003	$220		**2012**	$310	**2023**	$420
2004	$230		**2013**	$320		
2005	$240		**2014-2015**	$330		
2006	$250		**2016**	$340		

This information is particularly important for people who own LTC or similar coverage that pays by the indemnity or cash indemnity method - or - for people who own more than one policy. This rate is applied to calculate in part the tax-free benefit amount that can be received each year from traditional long-term care (LTC) policies, linked benefit LTC policies, LTC riders on life insurance and annuities, and chronic illness riders.

IRS GUIDELINES FOR TAX FREE LTC BENEFITS

LTC benefits may be received tax free, cumulative of all policies being paid for the benefit of the insured, and regardless of who owns the policies as either:

- the greater of the HIPAA per diem in the year of claim, or
- actual qualifying LTC expenses incurred.

Thus, any amount of LTC benefits received in the year of claim that are equal to or less than the HIPAA per diem will be tax free with no need to justify expenses. Additionally, any amount received that exceeds the HIPAA per diem but does not exceed actual qualifying expenses, will also be tax free.[1]

INDEMINTY VS. REIMBURSEMENT BENEFITS

The benefit models from which LTC benefits are paid are probably the most important information to understand, as it will dictate how LTC benefits from the policy can be used. Once the benefit models are clear, it is much easier for an individual to choose LTC coverage that will best fit their needs.

Reimbursement plans

These plans generally work as follows with both traditional LTC policies, linked benefit policies (hybrid) and LTC riders on life insurance and annuities:

- Only expenses qualifying under the contract are reimbursed, up to the LTC monthly (or daily) benefit of the policy.
- Bills and receipts must be submitted monthly to the insurance company to determine the amount that qualifies for reimbursement.
- While some plans may allow direct billing and reimbursement with the care provider, many care providers will not participate in 3rd party billing.
- These plans do not pay any benefit dollars that exceed the cost of care, even if the benefit amount issued is higher than actual expenses
- Some plans paying monthly benefits reimburse expenses based on a maximum daily pro-rata amount, calculated as 1/30 of the monthly benefit. This means that if the insured's bill was more than the daily pro-rata amount, the reimbursement for that day would be capped at the 1/30 pro-rata benefit – even if other day's billed expenses were far below the daily pro-rata amount. The result is that with the type of plan, there could be out of pocket expenses – even when total bills for the month did not exceed the monthly benefit amount. Contracts should be read carefully.
- Owning two reimbursement policies would typically subject the policy owner to coordination of benefits. Each insurance company will only pay a pro-rata portion of expenses — and nothing more.
- In the event that there is more than one LTC policy being collect from, and there are no coordination of benefits – then tax free benefits will be based on the IRS guidelines tied to HIPAA as stated above.
- Assuming only one policy is being collected from, then there is no taxable event.

Indemnity plans

The following generally applies whether the policy pays by indemnity or cash indemnity. Variances will be noted. Please check the carrier for contract and policy provisions:

- Generally, companies offering chronic illness riders cap their benefits at the HIPAA per diem.
- Companies offering LTC coverage may pay monthly benefits in a variety of ways. Please refer to the policy contract and insurance carrier for clarification.
    - LTC benefits could be capped at the HIPAA per diem. This will result in extending how long LTC benefits can be paid, but even if bills exceed HIPAA, the contract will cap payments at the lesser of the issued benefit or HIPAA.
    - LTC benefits may pay the lesser of the issued benefit or up to two times the HIPAA per diem.[2] This formulation can be beneficial to policy owners who purchase policies paying larger LTC benefit amounts.
    - A few LTC products do not place any HIPAA limits on benefits collected. In today's market, this would most likely to be tied to linked benefit LTC policies.
    - Even when the insurance company is willing to pay a LTC benefit amount exceeding the HIPAA per diem, the tax formula established by the IRS for collecting LTC benefits still applies.[3]
- Basic indemnity policies generally require some licensed care to be provided, but any leftover benefits can be used as desired.
- Cash indemnity benefits can be spent as the policy owner wishes with no restrictions from the insurance company. Receipts will NOT have to be included with the tax return. However, keeping copies of receipts with tax records would be wise should an audit occur, especially if cost of care exceeds the HIPAA per diem.[4]

The following chart illustrates the claims process, receipt of LTC benefits, and how LTC benefits can be used when comparing cash indemnity policies vs. reimbursement policies.

	Reimbursement	Cash Indemnity
Procedure for filing a claim	• File the claim and provide required documentation (including Plan of Care) • Wait for claim approval • Complete applicable elimination period • Re-certify claim least every 12 months	• File the claim and provide required documentation (including Plan of Care) • Wait for claim approval • Complete applicable elimination period • Re-certify claim least every 12 months
Process for collecting the monthly LTC benefit	• Pay bills – then send receipts each month to the insurance company • Wait to see what qualifies for reimbursement – then receive a check. • Reimbursements are the lesser of: Qualifying LTC expenses covered under the policy — or — the maximum monthly LTC benefit • Declined expenses must be paid to the service provider out of pocket. • Some insurance companies allow direct billing & payment between the insurer and care provider, however; many care providers are unwilling to do 3rd party billing. Keep this in mind when choosing a care provider. • Repeat this process each month	• Receive a check every month for the maximum monthly benefit (or less if you choose to extend the benefit period), with no need to submit monthly paperwork
What is covered?	• Only bills specific to long-term care services are covered under the contract • Homemaker services, such as housekeeping laundry, shopping, lawn care, etc. may be included, but it may be required that the services be performed by the person providing the licensed care — see contract for details • Alternative care services are only covered at the discretion of the insurance company	Benefits can be used without restriction from the insurance company to pay for a variety of expenses,[ii] such as: • Unlimited home modifications • Family members providing 100% of care • Medical care and tests • Prescription medicine • Massage therapy • Transportation to doctors and therapists • Homemaker services provided by the person of the insured's choice • Any expense the insured incurs
What is often not covered?	Expenses that may not covered under the policy include: Care from immediate family members Medical care Physical therapy and massage therapy X-rays and tests Prescription medicine Certain (or numerous) home modifications Transportation	The are no restrictions placed by the insurance company on how benefits can be used, therefore funds can be spent on anything the policy owner wishes. Cash indemnity provides total flexibility to use LTC benefits for whatever is needed.

THE VALUE OF CASH INDEMNITY

Cash indemnity benefits offer value to many clients compared to reimbursement plans — or even basic indemnity plans. Because the insurance company does not restrict how LTC benefits are used and requires no monthly paperwork to collect benefits, cash indemnity policies may be more flexible and easier to use.[5]

Cash indemnity plans do not discriminate against alternative care services, and no permission from the insurance company is required in order to use LTC benefits to pay for such care. Conversely, reimbursement plans may have contract language to address use of alternative care services — but there are standards the alternative care service must meet to gain approval — thus the insurance company has the authority to decline benefit payments for these types of services.

Cash indemnity plans can be used to pay immediate family members or unlicensed caregivers - which may be less expensive - to provide 100% of the insured's care.[6] Reimbursement plans often do not allow immediate family members to be reimbursed for providing care to the insured, and usually have limitations or deny reimbursement for unlicensed care providers.

Cash indemnity benefits can be used to pay for care services existing now as well as services invented in the future. This would include traditional care services as well as alternative or "boutique" care services. One cannot predict if a reimbursement plan would pay for creative or alternative services invented in the future.

HOW NATIONWIDE PRODUCTS INTERACT WITH THE HIPAA PER DIEM

All Nationwide LTC solutions pay cash indemnity benefits. The following is a guide to how benefits are paid in regard to the HIPAA per diem in year of claim.

- The original LTC Rider, now only sold in New York, caps monthly LTC benefits at the HIPAA per diem in the year the claim is collected. As HIPAA adjusts upward over time, so will the benefit cap.
- The LTC Rider available on Nationwide survivorship policies will be capped for each person insured for LTC at the HIPAA per diem in the year the claim is collected. As HIPAA adjusts upward over time, so will the benefit cap.
- The LTC Rider II will pay the lesser of: the available monthly LTC benefit, or, two times the HIPAA per diem in the year the claim is collected. As HIPAA adjusts upward over time, so will the benefit cap.[7]
- YourLife CareMatters and CareMatters II do not have a benefits cap.[8]

IN SUMMARY

Having long-term care coverage in place is one of the most important components of helping to secure an individual's or couple's retirement plan. Thinking through the type of care one might wish to receive if a long-term care event were to occur, can help individuals determine which benefit model may work best for them. Cash indemnity plans provide the most choice, flexibility and control in how LTC benefits can be utilized for care services; while reimbursement benefits for example, may be more appropriate for a spendthrift spouse. The most important consideration is making sure that LTC benefits will help provide funds for the type of care the individual desires, and with a benefit model that fits with their individual needs.

In the end, the HIPAA per diem may be of little concern in deciding on which policy to purchase. The majority of policies are purchased with LTC benefits that are well below the HIPAA per diem that already exists today. And for the small percentage of people who will have LTC benefits available to them above the HIPAA per diem amount, they have the choice of taking less to stay within tax free guidelines - and if LTC expenses also exceed HIPAA and are equal to or less than LTC benefits collected, the benefits will still be received tax free.

NFM-18068AO.4 (04/23)

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[1] A tax professional should be consulted to help determine which of the insured's expenditures would be considered a qualifying long-term care expense for purposes of the IRS formula for tax-free benefits.
[2] Insurance companies offering this feature generally will pay the lesser of: the monthly available LTC benefit elected, or, two times the HIPAA per diem amount times 30.
[3] Supra, Note 1
[4] The insurance company may ask for copies of bills and receipts when verifying a claim and establishing the claim date, particularly when informal care is used. In the case of care provided 100% by informal care givers, the insurance company may depend on the date the Plan of Care is signed to establish a claim date.
[5] Supra, Note 3
[6] Please consult your tax advisor when paying immediate family members or unlicensed care providers
[7] Supra, Note 1
[8] Supra, Note 1