TESTIMONY

FROM

THE AMERICAN COUNCIL OF LIFE INSURERS

BEFORE

THE 2012 ERISA ADVISORY COUNCIL

MANAGING DISABILITY RISKS IN AN ENVIRONMENT OF INDIVIDUAL RESPONSIBILITY

AUGUST 28, 2012

Good morning. Thank you for the invitation to speak before the members of the ERISA Advisory Council. As mentioned, my name is Steve Clayburn and I am Senior Director & Actuary at the American Council of Life Insurers. The American Council of Life Insurers (ACLI) represents more than 300 legal reserve life insurer and fraternal benefit society member companies operating in the United States. These member companies represent over 90% of the assets and premiums of the U.S life insurance and annuity industry. ACLI member companies provide the majority of private disability income insurance coverage in the United States.

An objective of the ACLI is to educate public policymakers and regulators about the value of disability income insurance and our industry's important role in providing income protection and return to work assistance for people with disabilities. The private disability insurance industry recognizes the critical role it plays in helping families manage what is very often a difficult time in their lives.

Over the past couple of months, ACLI has submitted to the Council several written statements regarding the private group disability income insurance market and how this product typically works. The purpose was to provide the members with more information (educational material) on how private group disability income insurance is designed and how the typical insurer operates. The submitted statements included detailed outlines of sample definitions of disability, integration of offsets (including estimating Social Security Disability Insurance benefits), and an overview of the disability insurance product and summary of the current federal regulatory framework that governs the claims handling process.

So as not to bore you with recitation of all the documents, I will briefly address some of the questions asked during the June 12, 2012 meeting. These questions dealt with the definition of disability and Social Security Disability Insurance offsetting.

The written statement regarding samples of definition of disability provides the history of the differing definitions of disability. As one can see, the definition can vary across group insurance policies. Briefly, some policies pay benefits if you are unable to perform the major duties in your own occupation. Other policies pay benefits if you are unable to perform the duties of any occupation for which you are reasonably qualified by education, training, and experience (to name a few areas). These two primary definitions of disability constitute the majority of the group insurance policies sold today; with many employer-sponsored group policies combining these definitions (69% of group LTD plans use a combination of definition[1]). For example, typically a group insurance policy would provide "own occupation" coverage for twenty-four months and "any occupation" coverage thereafter. This flexibility in policy design helps an employer afford and choose a plan for its employees.

In addition to varying definitions of disability that allow an employer to design the plan it wants to offer its employees, group insurance products commonly include language that gives the insurer the ability to offset for Social Security Disability Insurance (SSDI) benefits. Two major reasons for offsetting SSDI include: 1) the offsetting helps to promote a return to work incentive to the individual (It may be quite likely that the aggregate of the two benefits may be greater than pre-disability earnings or at a level that would unintentionally provide a disincentive for the individual to return to work.); and 2) policies with offsets can be priced more affordably enabling employers to continue to provide this valuable coverage (Estimates range from 40% up

[1] General Re 2010 U.S. Group Disability Rate & Risk Management Survey

to 100% increase in premiums if the SSDI offset provisions were excluded – depending on the demographics of the group).

During the June 12, 2012 meeting someone had asked about SSDI offsetting, specifically estimating SSDI offsets. If a group disability insurance policy includes provisions to offset, the offset process, including estimating SSDI, is usually documented in the policy, the summary plan description, and written communication with the claimant. The typical industry practice is to only require that a claimant apply for SSDI only when the insurer reasonably believes that the claimant may be eligible for that benefit. Further, carriers would not estimate and deduct SSDI so long as the claimant is reasonably pursuing benefits and provides some indication to the insurer of this effort. If a carrier does apply an estimate, the estimate is usually based on the Social Security Administration's calculator to determine this estimated offset. The typical practice is not to apply an estimated offset because the claimant (if deemed to be potentially eligible) usually applies and requests that the estimation not apply. So long as carriers can assert a legal claim for reimbursement of overpayments (no interest applied), they are more inclined to forgo any contractual right to estimate and deduct.

So that is a very brief summary of the two major areas that the Council had asked questions during the June 12, 2012 meeting. The submitted ACLI written statements do provide more information on industry practice and how the industry attempts to provide a valuable benefit at an affordable cost to the employer-sponsored group disability insurance market.

Again, thank you for the opportunity to provide the industry's practices on private group insurance as well as the invitation to speak to you today. I am happy to answer any questions that you may have regarding the written statements submitted or other questions.