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The Risk Retention Reporter

Claims-Paid™ Policy Offers Risk Retention Groups A Way To Assess Insurance Costs On A Real Time Basis

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Q. What motivated the formation of Continuing Care Risk Retention Group, Inc. (CCRRG)?

A. The long-term care facility industry is in the midst of its worst insurance crisis. Premiums are spiraling upwards and capacity is shrinking for traditional medical liability coverage. CCRRG was developed as a response to this crisis situation. In particular, we wanted to create a program that was less expensive, rewarding proper risk management and lower losses. To achieve this goal, we offer a unique Claims-Paid™ insurance policy, rather than the traditional Occurrence or Claims-Made forms. This new type of insurance, modeled on the successful use by a California medical malpractice insurer, is typically significantly less expensive, but requires each insured to participate in a number of stringent risk management efforts.

Q. What is Claims-Paid™ insurance?

A. Claims-Paid™ insurance was developed by the Cooperative of America Physicians, Inc./Mutual Protection Trust (CAP-MPT), a California insurer founded in 1977 to provide professional liability to "California's best physicians." Now in its 27th year of operation, CAP-MPT, established as a California mutual protection trust and rated A by A.M. Best, has more than 6,000 members and a trust corpus approaching $80 million. CAP-MPT covers more than 15% of all of the physicians in California, and CAP, its administrative arm, is a strategic partner of CCRRG.

Q. What makes Claims Paid™ insurance different from other types of policies?

A. Claims Paid™ insurance is a forward-looking type of coverage, and is the next evolutionary step in insurance, after occurrence and claims made forms. Under Claims-Paid™, the liability for the indemnity of a peril shifts, not at report as with occurrence and claims-made, but when the claim becomes due. This change encourages an insured to remain with the carrier and to work together to reduce the ultimate loss of a particular claim.

Reserving is much less significant for a Claims-Paid™ carrier and therefore, its premiums are set on actual costs rather than estimated costs. Traditional carriers charge premiums in amounts they hope will be sufficient to pay anticipated costs well into the future. Their premiums are based on assumptions about future investment earnings and the cost of malpractice claims among their insureds and the costs associated with running the company and servicing the insureds.

Under a Claims-Paid™ insurance form, premiums are based on the expected costs for the next 12 months and therefore are significantly less expensive. If an insured changes carriers and has an open claim, that claim moves with the insured and is not the liability of the Claims-Paid™ carrier.

Q. How has the Claims Paid™ form been implemented by CCRRG and how is it priced?

A. Pricing is predicated on actual cost. Members of CCRRG pay an annual premium based on estimated paid claims, defense costs, reinsurance and administrative cost for the next 12 month period. Every member of CCRRG has a common renewal date allowing a proper projection of costs for the next 12 month period for all members versus a "guesstimate" approach to rating premiums utilized by the traditional PL/GL carrier.

Q. What are the primary differences between a traditional Occurrence or Claims Made policy and the CCRRG Claims-Paid™ Policy?

A. The transfer of liability is a primary difference. Tail coverage, prior acts and limits all work in the same fashion. The members of CCRRG recognize that the typical Claims Made or Occurrence carrier must collect premium today for what they anticipate may be their cost over many years to come, an inexact science at best. CCRRG charges premium predicated on only what it anticipates its actual cost to be for a 12 month period, a much more accurate estimate of cost.

Q. Why did CCRRG select the Claims-Paid™ form when it had never been utilized in insuring the long term care industry before?

A. In researching potential alternatives, we became aware of the CAP-MPT inter-indemnity form. Upon further investigation of Claims-Paid,™ this new insurance form seemed to address many of the frustrations of current LTC operators.

The smaller operators were looking for a reasonably priced insurance product to cover their facilities. The perception of many operators is that pricing from the traditional carrier has been based more on downturn in stock portfolios, while offering little in the way of industry specific coverages or loss control services.

Claims-Paid™ eliminates many of those issues and offers a meaningful alternative to the traditional carrier. The Claims-Paid™ concept provides the potential to keep prices low so long as claims activity is favorable, based on the premise that insureds are required to pay annual premiums rated primarily on actual claims settlements instead of estimated ultimate losses.

Q. What are the benefits and corresponding what are the drawbacks of the Claims Paid™ form.

A. One of the more obvious primary benefits of the Claims-Paid™ form, as implemented by CCRRG, is attractive pricing. The Claims Paid™ form allows pricing to be predicated on what actual cost is projected to be for a 12 month interval. Pricing is computed after renewal of all members has been determined, based on what operating and reinsurance costs are going to be as well as what portion of any outstanding claims are scheduled to be paid over the next 12 months, not based on the ultimate projected losses that may, or may not, be paid for many years to come.

Another benefit of the Claims-Paid™ format is that it encourages long term membership, key to the success of any program owned by the insureds. A drawback is that if actual claims costs are larger that what was projected for the current 12 month period there is an immediate realization of that cost in the premiums for the next year, or potentially a member assessment in the current year.

The members of CCRRG recognize they are taking a calculated risk that CCRRG will do "better than average" and also recognize that they are liable for potential assessment based on current premium versus paying an out of pocket "reserve charge" that they will likely never recoup. They believe that the risk is worth taking by recognizing they are paying a "true cost" of insurance versus what a traditional carrier says they should pay.

Another advantage/disadvantage is that CCRRG is not designed for the "let somebody else worry about it" operator of a LTC facility or those operators that are not willing to make changes, if necessary, in how they run their operations. It is also not designed for the operator looking only for "cheap insurance" or who does not anticipate being involved in LTC for the long term. CCRRG has been developed by, and is comprised of, members that recognize they must take a stake in and participate with CCRRG to ensure their insurance company remains viable.

Q. Do you believe that the Claims Paid™ will ensure success for CCRRG?

A. The ultimate success of CCRRG and its implementation of the Claims Paid™ form and rating methodology will depend on the partnership between the quality LTC operators and the industry specific knowledge of its strategic partners. Without quality care provided to the residents, no insurance product can be successful.

Robert Bates is President of Magnolia LTC Management Services, Inc., a Santa Rosa, California-based company that provides a range of services for the CCRRG, and served as the moving force behind its formation.

Peter Kezirian is the Strategic Vice President of the Cooperative of America Physicians, Inc./Mutual Protection Trust (CAP-MPT), a California insurer founded in 1977 to provide professional liability to "California's best physicians." Established as a California mutual protection trust, CAP-MPT is rated A by A.M. Best.

Troy Winch is vice president of Risk Services, a captive management firm with offices in several states that participated in the formation of CCRRG and will provide ongoing captive management services.

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