RGA

Global Claims Views

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Assisted Suicide and Euthanasia: Claims management considerations

Introduction

The term 'assisted suicide' refers to the act of deliberately aiding, assisting or encouraging another person to end his or her own life. The term encompasses physician-assisted suicide, whereby a doctor, at the request of a patient, knowingly and intentionally provides the knowledge and/or means for the commission of suicide, including counselling and prescriptions for lethal doses of the needed drugs.

Euthanasia differs from assisted suicide in that it refers to the act of one person deliberately ending the life of another upon request, to relieve pain and suffering.

We have recently received a number of enquiries about our approach to handling death claims arising from assisted suicide and euthanasia. This is a highly sensitive and contentious issue, and laws and policy exclusions relating to it vary substantially around the globe.

This Briefing Note discusses the impact of both assisted suicide and euthanasia on life claims and summarizes some of the key considerations claims assessors need to take into account when managing claims involving assisted suicide and euthanasia.

Key Considerations

Exposure/Incidence

Whilst suicide itself remains a significant cause of death in the majority of markets, incidence of claims involving assisted suicide and/or euthanasia is rare. This is true regardless of whether these practices are legal or illegal. We believe the current rate of incidence of assisted suicide and/or euthanasia is unlikely to increase dramatically in the future, so assessors are not likely to have significant exposure to these claims.

Suicide Exclusions

- Policies in the majority of markets have exclusion language that denies payment of a death benefit resulting from suicide. This exclusion typically applies for the first 12 to 24 months from the date of policy commencement or reinstatement. Some but not all policies specify the inclusion of both sane and insane suicide.
- Outcomes of suicide exclusions can differ slightly, depending on the country. For example:
  - in one, the suicide exclusion specifies that the insurer's liability is limited to the mathematical reserve that was created by premiums that were paid until the date of death,
  - whereas in another, the suicide benefit within the exclusion clause is limited to the return of premium plus applicable statutory post-mortem interest.
- Policies in most markets do not include a clause that relates specifically to assisted suicide or euthanasia, but there are a few that do. Some of these clauses will cover euthanasia but not assisted suicide or physician-assisted suicide.

The Law

The legal approach to assisted suicide and euthanasia varies across different countries so it depends on the legal jurisdiction in which the policy was written. This Briefing Note will not cover this complex topic in detail, but provides some key points to note:

- Assisted suicide and euthanasia are illegal in the majority of markets.
- Some countries have legalized assisted suicide. These include: the Netherlands, Luxembourg, Switzerland and certain U.S. states. Each country usually requires very strict conditions to be met.
- Assisting in the death of another person, albeit with their consent, is a very contentious area of the law. Courts have been known to overrule strict legal positions when individual cases are debated on their specific merits.

Claims Management

Policies rarely have a specific exclusion relating to assisted suicide or euthanasia. However, in many markets the standard suicide exclusion wording might cover this eventuality. Consideration should be given to the precise wording of any exclusion clause and the timing of death relative to suicide exclusion periods. In most cases, if there is sufficient evidence that the insured ended his or her own life, whether with or without assistance, within the time limit of the suicide clause, the claim will be declined.

- If assisted suicide or euthanasia is illegal in the country where the policy was issued, it could be argued that claims should be declined irrespective of the point of time when the suicide occurs. This would ensure that criminal behavior is not being supported. In some cases, assisted suicide could be considered to be murder under the law. If a specific exclusion relating to murder or an illegal act exists in the policy language, it may be suitable to enforce this clause.
- If assisted suicide and euthanasia is legal in the country where the policy was issued, and if support of the claim is being considered, then every effort should be made to ensure that the strict legal requirements in that country related to the enabling of the assisted suicide or euthanasia were followed.
- One area of concern to note is whether the person who has assisted or contributed to the assisted suicide is the named beneficiary on a policy or if he/she would benefit either directly or indirectly from the estate.
- If any doubts exist as to the nature of the suicide, whether the person (or persons) assisting the suicide might benefit from it, or whether the person assisting the suicide might be under criminal investigation for it, legal advice should be sought.
- If financial gain of a beneficiary was not the primary motive for the assisted suicide, many markets will consider taking a sympathetic approach to these claims, regardless of the law. Declining a claim that could

otherwise have been payable for the 'same condition' (for example under a Terminal Illness definition within the policy) has the potential to result in very poor publicity for an insurer. Several additional factors should also be studied if a sympathetic approach is being considered, such as:

- Did the beneficiary / assister have any motive other than compassion?
- Was there a written statement of intent by the insured (deceased)? If so, it may reduce concerns.
- Does medical evidence support the contention that death was otherwise imminent and would have occurred before the policy expiry date if it had not been assisted?
- How long has the policy been in force? It may be more appropriate to support the claim if the policy has been in force for a considerable length of time.

- The following example highlights certain key considerations and factors which may impact the outcome of a claim:
  - Upon diagnosis of Motor Neurone Disease, an insured decides she does not want to experience the on-coming deterioration so she elects to commit suicide.
  - If her action falls within her policy's suicide exclusion period, then a beneficiary's claim will likely be declined, whether or not the suicide was assisted or carried out by the insured.
  - If the suicide occurs after the suicide exclusion period, the claim is likely to be payable if it was the insured that brought about her own death.
  - If, however, the suicide was assisted, the outcome of the claim will depend on the precise policy wording; specifically, any general exclusions that exist and the specific circumstances of the death. The outcome will also depend on whether the claim could have been payable under a Terminal Illness definition prior to the insured's death.
- For cultural reasons, claims assessors in certain markets may choose to 'turn a blind eye' if assisted suicide or euthanasia is suspected. It is very possible that claims assessors will not be aware that assisted suicide was the cause of death.

Conclusions and Next Steps

- Although the issue of suicide is emotional and claims resulting from this act are likely to be complex, numerous factors need to be considered when managing such claims. We would advocate individual consideration, reinsurer referral and legal advice for any claims where assisted suicide or euthanasia is suspected.
- While standard suicide clauses can potentially cover assisted suicide and euthanasia, consideration should also be given to amending policy language in new product materials so that it will directly address these topics to ensure clarity in the future. ■

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