

TUESDAY  
JUNE 20, 1995**BUSINESS** Los Angeles Times

DARCY PADILLA / For The Times

Carol Fiedler, president of Fiedler Financial, a viatical settlement consulting firm, with client Will Sweet, who has AIDS.

PERSONAL FINANCE / KATHY M. KRISTOF

# Living for Today

## Terminally Ill Are Opting to Cash In Policies

**W**ill Sweet has AIDS and, maybe, 18 months to live. With no job and limited assets, you might expect the 42-year-old San Francisco resident to be struggling to get by. But he's living it up—taking trips with friends and giving his family costly gifts—thanks, in part, to investors who will make a profit when he dies.

Sweet is among a growing number of terminally ill individuals—most of them suffering from AIDS or the final stages of cancer—who have opted to sell their life insurance policies to so-called viatical settlement companies. By selling their insurance, policyholders get cash today for a benefit that would normally go to their beneficiaries after they pass away.

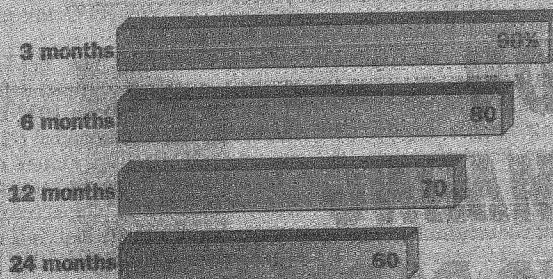
These specialized companies have not escaped the notice of the insurance industry, which has begun to more aggressively compete for some of the business by offering options within policies called "accelerated benefits." Although offering similar terms, the insurance companies often offer easy ways to cash in only part of a policy while leaving the rest for heirs.

In 1991, only 113 of the nation's 2,000 insurers offered an accelerated benefit to terminally ill policyholders. Today,

• Please see **INSURANCE, D5**

### What to Expect

How much should you expect to be paid if you sell your insurance policy to a viatical settlement firm? California regulators have put together "minimum average" standards, shown here as a percentage of death benefit based on expected remaining lifetime:



Source: California Insurance Department

Los Angeles Times



# INSURANCE: Terminally Ill Are Opting to Cash In Policies

Continued from D1

roughly 215 companies—including 21 of the nation's 25 largest—offer accelerated benefits, according to the American Council of Life Insurance.

Viatical settlement companies, which emerged with the AIDS crisis and advertise heavily in gay publications, pay terminally ill individuals between 50 cents and 95 cents on the dollar for valid life insurance policies. The percentage of payout depends on the company buying the policy and how long the policyholder has to live. The shorter the anticipated lifetime remaining, the bigger the payout.

When someone such as Sweet dies, a viatical settlement company collects the death benefit, sometimes earning a 10% to 30% profit in the process. But when a client lives longer than expected, the profit may disappear or turn into a loss.

Not surprisingly, the industry is controversial. Some call settlement companies "ghoulish," while others dub them "angels of mercy." Congress recently held hearings on the industry. The Securities and Exchange Commission is looking into how policies are sold. And, increasingly, states are regulating viatical settlement companies or at least setting some minimum standards.

California, for example, licenses the companies and the Insurance Department publishes a list of legal operators and a guide to payout rates.

Owners of viatical settlement companies are divided about what they think about all the regulatory attention. Some welcome it, saying additional scrutiny can only make the industry better. Others complain that excessive regulation could drive companies out of business, reducing options for the terminally ill.

However, they're nearly unanimous on one point: There's a need for viatical settlements. Somebody—whether settlement companies, individuals or insurers—had to step up to address it.

"I know, at first glance, it sounds ghoulish. Certainly, it is sad to deal with death and illness," says David E. Berman, a Virginia-based plastic surgeon who operates Accelerated Benefits of Washington. "But I don't have any influence on when these people pass away. And we are making their lives better."

Sweet and others agree.

"No one would understand it unless they were in the position where their life was on the line," Sweet says.

The sad fact is, many terminally ill people spend their last months—sometimes years—struggling with high medical costs and unemployment. Few can get by on disability income alone, Sweet adds. Selling their insurance policies allows them to live out their remaining time in comfort.

"The people who are viaticating their policies are largely gay men who don't have children or dependents who would need their life insurance money," says Carole Fiedler, president of Fiedler Financial of Sausalito, Calif., a viatical settlement consulting and brokerage firm. "This is like found money that they can get at a time when they need it the most."

Certainly, the viatical settlement industry is growing. Starting with only about two companies in 1990, the industry now boasts more than four dozen. Estimates vary on the value of policies purchased, but most experts put it in the range of \$300 million in 1994 and project about \$400 million in sales this year.

Viatical companies will buy virtually any type of policy, but most will not buy policies that are less than 2 years old and subject to "contestability" periods, which allow coverage to be canceled if there was misrepresentation.

Generally, the cash to buy policies comes from wealthy individuals who join or form viatical companies and investment partnerships.

Some companies have also gotten small investors into the act by acting as go-betweens—finding ready buyers for life insurance policies of the ailing. However, the SEC is concerned that the practice amounts to selling unregistered securities.

Still, there is nothing to prohibit individual deals between friends. However, anyone who plans to buy a single policy as an investment should recognize the risks.

To be blunt, the policyholder may live—or live much longer than expected. Sellers are usually required to provide a doctor's opinion, but some terminally ill patients live years longer than expected. And with continuing medical breakthroughs, there's always the chance that a policyholder could be cured.

Also, once the policyholder does die, you must find out about it and obtain their death certificate in order to claim the life insurance proceeds. This can be an uncomfortable and unpleasant task. Even then, some insurers delay for months.

As the viatical settlement industry has grown, so too has the insurance industry's correlative product: accelerated benefits.

For some people, accelerated benefits are better than a viatical settlement. The difference: By and large, insurers that offer accelerated benefits pay the policyholder cash for a portion—often between 25% and 50%—of the death benefit. However, they don't accelerate payment of the rest. Instead, they pay the balance to the policyholder's beneficiaries at death. That leaves the policyholder with less

cash upfront, but they're able to leave money to their heirs.

Consider a hypothetical policyholder who is considering a viatical settlement instead of an accelerated benefit, owns a \$200,000 policy and is expected to live six months. His insurer might give him an accelerated benefit amounting to 95% of the first 50% of the death benefit. The other 50% of the benefit will go to his heirs. The bottom line: He would get \$95,000 upfront and leave his heirs \$100,000.

On the other hand, a viatical settlement company would buy the policy straight out, for perhaps 80 cents on the dollar. That would mean this individual would get \$160,000 upfront. But the beneficiaries would not receive any additional payments when he or she died.

Generally speaking, accelerated benefits are available only to people who have a very short time to live, usually a year or less, while viatical settlements can be arranged earlier. In some cases, you can viaticate a policy when the diagnosis says the policyholder has as long as four years to live, Fiedler says.