

**Highlights of the Community Living Assistance Supports and Services (CLASS)
Provision in the Health Reform Act
April 29, 2010**

- CLASS is a voluntary, public long-term services and supports option contained in the legislation signed on March 23 by President Obama.
- CLASS is financed through a payroll tax that is deducted from an employee's paycheck UNLESS either the employee or employer opt out of the program. It's less than a one percent reduction.
- If the employer opts out, the employee can still participate in CLASS through the state's health insurance exchange. This provision also allows for participation by a non-working spouse. (However, this is one of the details that has not been worked out. As you'll see below, this program starts this coming January; however, the exchanges aren't active until 2014.)
- CLASS begins on January 1, 2011.
- Following a five-year vesting period (the earliest services can be accessed is 2016), the program will provide individuals with functional limitations a cash benefit of not less than an average of \$50 per day to purchase nonmedical services and supports necessary to maintain community residence.
- Employee must pay in for three years to receive benefits and must have a "qualifying disability."
- The \$50 per day benefit is an average and will be indexed by level of disability.
- CMS must structure the program so that CLASS is actuarially sound for 75 years.
- Payment is cash that can be flexibly used to pay for any type of service, including institutional care, but the amount of the benefit encourages lower cost home- and community-based services (which was the aim of the program). If a consumer uses the benefit to pay for institutional services, they are still guaranteed the right to keep a percentage of the benefit in addition to a personal needs allowance.
- Long-term care insurance industry has been divided in its support of CLASS – some viewing it as a competitor to private insurance; others seeing it as an opportunity because consumers will likely need to purchase supplemental coverage and because it will get Americans to think about their need for such insurance in the first place.
- Like other forms of health insurance under the new law, CLASS has no annual or lifetime maximum benefit.

- CLASS doesn't affect Medicaid eligibility. However, if the individual accesses supports through Medicaid, the state receives the money from the federal government, not the individual.

<http://www.healthleadersmedia.com/print/LED-248406/Healthcare-Reform-Will-Impact-LongTerm-Care>

Healthcare Reform Will Impact Long-Term Care

MacKenzie Kimball, for HealthLeaders Media, March 23, 2010

The health reform legislation passed in the House Sunday contains numerous provisions related to long-term care.

One of these provisions is the Community Living Assistance Services and Support (CLASS) Act, which was originally introduced by the late Senator Edward Kennedy. The CLASS Act will make long-term care insurance available to all Americans, who will be automatically enrolled with the choice to opt out.

Individuals will begin paying a premium immediately and, after five years, those with functional limitations have the option of receiving a cash benefit of around \$50 a day that can be used to offset the cost of long-term care services.

"The CLASS Act will help offset the high cost of long-term care services for aging and disabled populations. In particular, these funds will allow individuals flexibility to receive services in their homes and potentially prevent admissions to nursing homes," says Katherine McCarthy, business account manager at PointRight in Lexington, MA. "The overarching goal of healthcare reform is to make healthcare both more accessible and affordable in the U.S. Long-term care expenses, particularly in aging populations, are among the most costly to Medicare and Medicaid today. By providing insurance, there is a real opportunity to reduce costs in this sector."

The bill also includes a provision to help close the Medicare Part D coverage gap for medications. According to the Senate's summary of the Patient Protection and Affordable Care Act, "in order to have their drugs covered under the Medicare Part D program, drug manufacturers will provide a 50 percent discount to Part D beneficiaries for brand-name drugs and biologics purchased during the coverage gap beginning July 1, 2010. The initial coverage limit in the standard Part D benefit will be expanded by \$500 for 2010."

The bill will implement much stricter guidelines in terms of ownership transparency of nursing home chains.

"This will allow patients and the public at large to better understand ownership and operational hierarchies that currently are difficult to identify. Making these changes in the industry will be challenging, particularly for large publically-owned chains," McCarthy says. "However, those of us in the industry are all very excited that the bill will extend the therapy caps exceptions process through 2010. At the end of this year, they will have to revisit this issue again, at which point we are all hopeful for a long-term fix that ensures patients are able to receive the care they need based on medical necessity, rather than an arbitrary cap on funding."

In addition to the healthcare reform bill, the House passed a reconciliation bill containing changes to the just-passed legislation, which will be sent to the Senate for final approval.

One of these amendments awaiting a final vote is an amendment to delay the implementation of Resource Utilization Group, Version Four (RUG-IV), by a year. RUG-IV was originally scheduled to be implemented alongside the MDS 3.0 in October, but the amendment to the healthcare bill will not allow RUG-IV to be implemented before October 1, 2011.

However, the amendment will still implement the MDS 3.0, concurrent therapy adjustment, and changes to the look-back period to ensure that only services provided after skilled nursing facility admission are counted toward RUG placement on October 1 of this year.

"The RUG-IV delay is not certain yet, but we will know more as the budget reconciliation process unfolds and expect an answer within the next few days," McCarthy says. "In my opinion, the RUG-IV delay is not a cost saver, and that a delay in the implementation of RUG-IV is unlikely, but we don't have any concrete information at this time."

McCarthy says long-term care faces challenges, but she is hopeful that it will continue to adapt.

"In my opinion, reform will be a hurdle for long-term care facilities and providers. While there will always be a need for nursing homes, healthcare reform does ultimately encourage greater usage of home care services or other residential options," McCarthy says. "But overall, this bill, and the spirit with which it was written, is good for everyone, because its main goal is to increase the number of insured substantially and improve both quality and access to care. The long-term care sector has proven their adaptability in the past, and I am certain we will see that in these changing times as well."

<http://www.passtheclassact.org/fact-sheets>

Summary of the CLASS Act of 2009

(Community Living Assistance Services and Supports Act)

Purpose of the Bill

To help adults with severe functional impairments obtain the services and supports they need to stay functional and independent, while providing them with choices about community participation, education and employment.

Background

Currently there are 10 million Americans in need of long term services and supports, and the number is expected to increase to near 15 million by 2020.

Most private-sector disability or long-term care insurance plans are constrained in the insurance protection they can offer at an affordable price, and neither Supplemental Security Insurance (SSI) nor Old, Age, Survivors, and Disability Insurance (OASDI) programs have any benefit differentials related to the extent and character of the disability.

Thus, most Americans who have or develop severe functional impairments can only access coverage for the services critical to their independence (such as housing modifications, assistive technologies, transportation, and personal assistance services), through Medicaid. Their reliance on Medicaid for critical support services creates a strong incentive for them to “spend down” assets and remain poor and unemployed. With Medicaid paying 50% of the costs of long term services, increased expenditures on long term services are expected to add \$44 billion annually to the cost of Medicaid over the next decade.

Overview of the Legislation

The CLASS Act will offer an alternative path. It will create a new national insurance program to help adults who have or develop functional impairments to remain independent, employed, and stay a part of their community.

Financed through voluntary payroll deductions (with opt-out enrollment like Medicare Part B), this legislation will help remove barriers to independence and choice (e.g., housing modification, assistive technologies, personal assistance services, transportation) that can be overwhelmingly costly, by providing a cash benefit to those individuals who are unable to perform 2 or more functional activities of daily living.

The large risk pool to be created by this program approach will make added coverage much more affordable than it is currently, thereby reducing the incentives for people with severe impairments to “spend down” to Medicaid. It will give individuals added choice and access to supports without requiring them to become impoverished to qualify.

The CLASS Act is an important step in the evolution of public policy toward a new focus on helping individuals overcome barriers to independence that they may confront due to severe functional impairments. It is an important extension of concepts embodied in the Individuals with Disabilities Education Act (IDEA), the Americans with Disabilities Act of 1990 (ADA), and Ticket to Work and Work Incentives Improvement Act of 1999.

Specifics of the bill

Scope:

The CLASS Act will establish a national insurance program, financed by voluntary premium payments to be collected through payroll withholding and placed in a “National Independence Fund.” The Department of Health and Human Services will manage the Fund as a new insurance program, and may enter into contractual agreements with those entities that states direct to assume administrative/program implementation roles.

Enrollment in the Program:

Any individual who is at least 18 years old and actively working will be automatically enrolled (unless they opt out), and pay their premiums through payroll deduction or another alternative method. Any non-working spouse may enroll in the program and pay their premiums through an alternative payment procedure.

Triggering the Benefit:

To qualify for CLASS Act benefits, individuals must be at least 18 years old and have contributed to the program during at least 5 years. Eligibility for benefits will be determined by state disability determination centers and will be limited to: (1) individuals who are unable to perform two or more activities of daily living (ADL) e.g. eating, bathing, dressing), or (2) individuals who have an equivalent cognitive disability that requires supervision or hands-on assistance to perform those activities (e.g. traumatic brain injury, Alzheimer’s disease, multiple sclerosis, mental retardation)

Benefits: To account for differences in independence support needs, there will be two cash benefit tiers.

- **Tier 1 benefits (\$50/day) will be payable to eligible individuals who are unable to perform 2 or more ADLs or have the equivalent cognitive impairment.**
- **Tier 2 benefits (\$100/day) will be payable to individuals who are unable to perform 4 or more ADL’s or have the equivalent cognitive impairment.**

The monthly case benefit will be posted monthly to a debit account or a “Choice Account”. Individuals who do not use the full monthly amount may roll it over from month to month, but not year to year.

However, once an individual becomes ineligible for CLASS benefits (by improvement in functional status or death), CLASS Act benefits will cease. Any residual balance of available services remaining on the individual’s account will not be payable. If an eligible individual does choose to move into an institutional facility, CLASS Act benefits will be used to defray those associated expenses.

Relationship of CLASS Act Insurance Program to Social Security Disability Insurance

Eligibility for CLASS Act benefits will be independent of whether or not an individual is eligible for SSDI, so participation in the CLASS Act insurance program will not impair an individual’s ability to remain qualified for SSDI.

Relationship of CLASS Act Insurance Program to Social Security Retirement Benefits

Similarly, eligibility for CLASS Act benefits will be independent of retirement benefits eligibility.

Relationship to Medicaid

If an individual is eligible for CLASS Act benefits, and are also eligible for the long term care benefit under Medicaid, CLASS Act benefits can be used to offset the costs to Medicaid, thus producing Medicaid savings for the state.

Relationship to Private Long Term Care Insurance

The “Class” program benefit does not replace the need for basic health insurance --- it provides a mechanism to pay for those non-medical expenses that allow a disabled person to remain independent. The “Class” program benefit can be an addition to long term care insurance. It provides a consistent, basic cash benefit to glove with the insurance products that provide more intense medical services over a shorter period of time.