

Although it hasn't received much attention, a provision in the federal health care reform creates a voluntary national insurance program for long-term care. This program, known as the Community Living Assistance Services and Supports program, or the CLASS Act, provides individuals with a cash benefit if they have a functional limitation or disability. As you know, long-term care costs are rising at an alarming rate. The intent behind the CLASS Act is to provide additional options for people who need assistance in paying for long-term care services. The CLASS Act became effective on January 1, 2011, though details of the program, including regulations, haven't been released. The program will not be operational until such regulations are issued. The government is required to release details on the program by October 1, 2012 at the latest.

Who is Eligible to Enroll?

Working adults are eligible to enroll in the CLASS program. Under the reform, a "working individual" is someone who is:

- At least 18 years old;
- Receiving wages or derives self-employment income;
- Actively employed; and
- Not a patient in a hospital or nursing facility, an intermediate care facility for the mentally retarded, or an institution for mental diseases and receiving medical assistance under Medicaid, or confined in a jail, prison, other penal institution or correctional facility, or by court order pursuant to conviction of a criminal offense or in connection with certain verdicts.

If an employer chooses to participate in the program, it must automatically enroll individuals; however, individuals may opt-out of the enrollment. If enrolled, premiums are deducted from participants' wages by the employer (self-employed people or those whose employers do not offer the CLASS program will be able to enroll through an alternative enrollment mechanism). The law explicitly states that no taxpayer funds can be used for payment of benefits – the program is solely financed by premiums paid by individual enrollees.





Premium payments will be placed in a “Life Independence Account” on behalf of each eligible beneficiary and federally administered by the Department of Health and Human Services as a new insurance program. Premium amounts will be determined by the government each year based on an actuarial analysis of the 75-year costs of the CLASS program that ensures solvency throughout such 75-year period. Younger participants will pay less than older participants, and those below the federal poverty level and full-time students who are actively employed will pay nominal amounts, starting at \$5 per month. The amount of monthly premium shall remain the same unless the government determines that it must be adjusted if required for program solvency.

Who is Eligible for Benefits?

An eligible beneficiary must be actively enrolled in the CLASS program and have a functional limitation, i.e., the inability to perform activities of daily living (e.g., eating, toileting, transferring, bathing, dressing, continence). In order to receive the benefits, an eligible beneficiary must have paid monthly premiums for at least five years and have been employed during three of those five years. No underwriting based on pre-existing conditions can be used to prevent an individual from enrolling or to determine monthly premiums.

What are the Benefits?

The program provides a basic cash benefit to those who meet the requirements. The amount of the benefit will be paid on a daily or weekly basis, varying based on the severity of the impairment or disability, and will average no less than \$50 per day, as indexed. The cash benefit will continue for as long as an individual meets the eligibility criteria and must be used to purchase non-medical services and supports necessary to maintain independence at home or in another residential setting in the community (e.g., home health care, adult day care, assistive technology, home modifications, personal assistance services, respite care, accessible transportation and homemaker services). The cash benefit will be posted to a debit account available for withdrawals and eligible beneficiaries can choose to defer payment of daily or weekly benefits and rollover such deferred benefits from month-to-month (but not year-to-year). The benefit is not subject to any lifetime or aggregate limit. Eligible beneficiaries can also receive benefits as a lump-sum payment before the end of the 12-month period in which such benefits accrued. Once an individual becomes ineligible for benefits, for example, by improving in functional status or death, the benefits end and any balance remaining on an individual’s account will not be payable. The government shall recoup any accrued benefits in the event of the death of the beneficiary or the failure of a beneficiary to elect a lump sum payment before the end of the 12-month period in which such benefits accrued.

Coordination of Benefits

CLASS works together with other long-term services and support programs such as Medicaid. Eligibility for CLASS benefits does not affect eligibility for Medicaid, Medicare, Social Security retirement, survivors, or disability benefits or Supplemental Security Income (SSI) benefits. Since Medicaid is generally a secondary payer, subject to the Medicaid payment rules, benefits received by an eligible beneficiary will supplement, but not replace other health care benefits for which the beneficiary is eligible under Medicaid or any other federally funded program that provides health care benefits or assistance.

Are the Benefits Taxable?

The CLASS program shall be treated for purposes of the Internal Revenue Code in the same manner as qualified long-term care insurance contracts for qualified long-term care services, and are generally not taxable.

Is the CLASS Act Right for All Employers?

Maybe. More than 10 million people (and the number continues to grow) need long-term service and supports to assist them in life's daily activities. The CLASS Act allows working adults to plan for these future needs and will likely reduce reliance on Medicaid while providing relief for family caregivers. On the flip side, does it really pay for an employer to offer the program? Individuals tend to believe they are invincible and will never get old, much less need care. Indeed, younger people with expenses, such as houses, etc., will likely put off enrollment. If an employer chooses to institute the program, there are many administrative duties that it must take on, such as distributing communications on automatic enrollment and the opt out right, automatically enrolling employees, processing opt out elections and working with payroll for those who remain enrolled. A further hindrance is that you have to pay in to the program for 5 years before you can see the benefit. Since the program is not operational yet, the earliest payout date isn't until 2017.

For more information:

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Are there Alternatives to the CLASS Act?

Yes! While some carriers have exited the LTC market, or are no longer offering their policies on a worksite or payroll deduction basis, several carriers, including industry leaders Prudential and Unum offer true group policies. Even groups with less than 100 employees can offer coverage on a guarantee issue basis if structured right – with a carve-out group of executives receiving a core benefit on a non-contributory basis, or by contributing a portion of the cost for all employees. Voluntary coverage is available on a simplified issue basis, with low participation requirements (as low as 15 enrolled or 5%).

One of the biggest benefits to private coverage is the ability to customize the group (or individual) plans to the needs of the consumers. Below is a partial list of features that are offered, and are often of particular interest:

1. Range of benefit amounts, waiting periods and durations
2. Indemnity & Reimbursement policies: indemnity policies pay a stated daily or monthly benefit regardless of the cost of care, while reimbursement policies reimburse covered costs up to a maximum benefit
3. Inflation protection features such as guaranteed purchase, or automatic increases on a simple or compound basis are available – and crucial due to the rising costs of long-term health care
4. Benefits paid for informal caregivers, such as family members
5. Benefits paid if care is received outside the United States
6. Premium can be billed directly to employees, or to the employer
7. Same benefits & rates available to family members