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Client Alert

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The CLASS Act Debate: Uncertain Effects for Long-term Care

Supporters of the Community Living Assistance Services and Supports Act (CLASS Act or CLASS plan) believe that it could help support growth in the long-term care industry by creating incentives to save for long-term care. Recently, however, critics have been more vocal about the pitfalls of the plan. The current debate centers on whether the plan will be able to sustain itself over the long term. Conflicting reports from the Centers for Medicare and Medicaid Services (CMS) and the Congressional Budget Office (CBO) have contributed to the debate over whether the CLASS plan will help or hinder long-term care. The CLASS Act is just one of many provisions in the House and Senate health reform bills which themselves are in flux. The CLASS plan is often overshadowed by the larger health care debate, but long-term care professionals may want to follow the CLASS Act because it is likely to have a significant impact on the industry.

CLASS Plan Basics

The CLASS Plan generally would allow workers to sign up for a pre-tax payroll deduction to fund long-term care. Participation is voluntary and the monthly premiums and benefits will vary depending upon participant age. Only those who are employed can participate in the plan but the plan will accept people who have pre-existing conditions. Both the House and Senate bills set the daily minimum benefit at $50 per day; however, estimates show that the daily benefit could be closer to $75 per day. Estimates regarding the monthly premium range from $140 per month to $240 per month. All participants would have to pay in for at least five years before they can become eligible for benefits.

The Solvency Debate

Recent actuarial studies have tempered optimism in the long-term care industry over the CLASS Act's potential. CMS gave a gloomy report to House Republicans, stating that the CLASS plan is not financially viable.[1] CMS actuary Richard Foster said the House version of the plan would bring $39 billion in federal revenue over the first decade but it would then take a precipitous decline and fail to sustain itself by 2025.

1 See Richard S. Foster, Memo on Estimated Financial Effects of the "America's Affordable Health Choices Act 0f 2009" (H.R.3962), as passed by the House on November 7, 2009 (November 13, 2009).

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The CMS analysis shows the plan starting to pay out more in benefits than it collects in premiums because of "adverse selection." Adverse selection means that, in a voluntary plan like the CLASS Act, people with health problems or those who expect greater risk of health failure will be more likely to enroll than people who have better health. Plan administrators will then be forced to increase premiums to cover the cost of a group with primarily poor health or high health risk. In turn, even more people with better than average health lose incentive to participate, which leads to even higher premiums. Foster dubbed this an "insurance death spiral" that will ultimately deepen the federal deficit.

The Congressional Budget Office (CBO), by contrast, has analyzed the Senate version of the CLASS Plan and arrives at more favorable predictions.[2] Like CMS, CBO predicts a cash positive influx over the first ten years. CBO also acknowledges that the plan will eventually run a deficit but also notes that the plan will contribute to Medicaid savings. CBO believes that the Senate bill has sufficient safeguards to ensure that the program is fiscally sound and sustainable for the long-term. The Senate version requires the program to set premiums based on an actuarial analysis designed to ensure solvency for 75 years. CBO incorporates this safeguard provision into its estimates of how the CLASS plan will fare.

Conclusion

The CLASS plan, if enacted, would bring unprecedented changes to the structure of long-term care insurance. As with any policy overhaul of this nature, the full consequences are difficult to predict. The CMS and CBO reports each look at slightly different versions of the proposed plan: CMS analyzed the House version and CBO reported on the Senate version. Congress will debate and try to reconcile differences between these two versions in the weeks to come. Thus, the final shape of the CLASS Act is subject to significant change, or perhaps even exclusion from the final health reform package. At this stage, especially with the current health reform bills in flux, the final result is hard to predict but the long-term care industry should continue to watch the CLASS plan closely.

2 See Douglas W. Elmendorf, CBO Letter to Senator Harry Reid on Senate Amendment 2786 (December 19, 2009).