


[« Back to Article](#)

## CLASS Act advances LTC awareness

### WEB EXCLUSIVE

By Kathleen Koster

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The Community Living Assistance Services and Supports Act created under health reform will likely bring new awareness to long-term care. Next, authorities say, employers must decide whether the baseline public program is preferable to offering a private LTC plan, or neither program.

Employers will have a lot to communicate, especially [if they offer the CLASS Act program](#). They will need to alert employees that this is an opt-out program and face misgivings if employees belatedly recognize the paycheck hit – money they won't see again unless they continue to fund the benefits for five years.

#### Helping hand

"The government projections call for 5% participation, which means employers will have to go through a lot of work and cost to educate 95% of their employees expected to opt-out. The mandatory opt-out provision could be highly problematic for employers who run the risk of disgruntled employees receiving reduced paychecks simply for failing to reply," says Jesse Slome, executive director, [American Association for Long-Term Care Insurance](#).

Mike Thompson, principal and head of the NY-metro health care practice in the [PricewaterhouseCoopers](#) Human Resource Services practice, agrees but suggests the CLASS Act will at least draw more attention to much-neglected long-term care benefits.

"If employers don't offer [government] long-term care they may relook at private long-term care plans. While there are significant differences between the private long-term care plan and the CLASS Act— and there are pros and cons to each—one of the advantages of a private plan that they may perceive is that it's more of an opt-in type of approach. The awareness around long-term care is likely to increase, Thompson explains.

"Right now, it's flying under the radar screen, but as more people become aware of what essentially is a public option for long-term care, I think employers are going to need to explain whether they offer the CLASS Act plan and if they don't, what do they offer. It's going to create an impetus to revisit their strategy as it relates to long-term care and explain why they do what they do," he says.

Basically, the CLASS Act assuages financial concerns for those requiring assistance with activities of daily living by establishing a national voluntary insurance program for purchasing community living assistance services and supports.

The purpose of the program, which goes into effect on Jan. 1, 2011, is to provide individuals who have functional limitations in their ability to maintain their personal and financial independence with a new financing strategy for community-based services and [alleviate burdens on family caregivers](#).

Employers may, but are not required to, allow employees to make CLASS program contributions through payroll deduction with auto-enrollment. Further, employers may offer private LTC arrangements to employees in addition to the CLASS program, or in place of the CLASS program.

Workers whose employers do not offer the program may participate in the CLASS program through alternative payment methods established by the government. CLASS is designed to be self-supporting and prohibits any use of taxpayer money to fund benefit payments. A board, appointed by the President, will manage the program so that it is self-supporting over a 75-year time horizon.

If the board decides the program is not actuarially sound, it must offer alternative recommendations for legislative action, including whether or not to adjust monthly premiums or impose a temporary moratorium on new enrollments.

*The following is a run down on the various provisions of the statute excerpted from a summary by PricewaterhouseCoopers:*

\* **Premiums** Monthly premiums will vary only by issue age (except for those who reenroll after having a lapse longer than three months as detailed below) and are intended to be level for the life of the employee. Premiums and benefit levels/triggers will be determined by the Secretary so that the program is actuarially sound over both the near term (over 20 years) and long term (over 75 years). The 75-year projection is to be prepared annually beginning Jan. 1, 2014.

\* **Premiums may be increased**, for both current and new participants, in order to safeguard the fund's future solvency. Seniors (over age 65) who have paid premiums for at least 20 years and are not actively employed are exempt from paying any premium increase. Low-income individuals (whose income does not exceed the poverty line) and full-time students up to age 22, need to pay only nominal premiums (capped at \$5 and adjusted for CPI). Monthly premiums will be deducted from the paychecks of employees whose employers provide the CLASS program.

\* **Eligibility to receive benefits** Benefit triggers are similar to those under other federal tax qualified LTC programs. To receive benefits, participants must be unable to perform a specified number (either two or three) of ADL, or have an equivalent cognitive impairment, for a continuous period of more than 90 days. Individuals must pay premiums for five years, and must earn wages for at least three of those years before they can be eligible for CLASS benefits.

\* **Enrollment and disenrollment:** The program is designed for voluntary auto-enrollment, with eligibility for employees over age 18 who are active workers and receive income subject to Social Security tax. Employees who do not enroll when initially eligible may subsequently enroll only during open enrollment periods set by the government. These periods cannot be more than biennial. Employees who initially enroll in the program and later disenroll during the set annual periods can reenroll without providing evidence of insurability.

\* If an employee re-enrolls after more than a three-month lapse in premium payments, the employee's premium will be recalculated based on the employee's age at the time of re-enrollment. Employees who re-enroll within five years are entitled to a credit for previously paid premiums. For those who reenroll after a five-year lapse, a late re-enrollment penalty of no less than 1% of monthly premiums since disenrollment will be added to their attained-age premium.

\* Benefits Beneficiaries will receive a cash benefit on a daily or weekly basis, based on a scale of functional ability. In addition, the benefits paid to all claimants will average no less than \$50 per day (adjusted annually for inflation).

\* However, there is no lifetime or aggregate limit on benefit payments, and may be paid into a Life Independence Account (LIA) established by the Health and Human Services Department for each eligible beneficiary. Benefits can be used to purchase non-medical services and maintain independence at home or in a community residential setting of choice.

\* Benefits coordination: The Act provides that benefits will be primary, and state Medicaid programs secondary, for beneficiaries enrolled in Medicaid. Fifty percent (if the beneficiary is receiving home and community-based services) or 95% (if the beneficiary is institutionalized) of the cash benefits received from CLASS will be used to reimburse state Medicaid agencies for providing Medicaid benefits. The CLASS benefits will not affect eligibility for other federal, state or local benefit programs.

### **Muddy waters**

It remains to be seen whether the CLASS Act will serve as a stepping stone toward more [comprehensive LTC coverage](#). While well intentioned, some benefit experts fear it may only muddy the waters and draw people away from more robust group LTC offerings (which normally have low enrollment rates).

For this reason, experts recommend that employers not offer both plans as this will only confuse participants and drive participation in a private LTC program down even further.

"You probably wouldn't want to offer both a private long-term care and the CLASS care because those two plans weren't built to integrate with each other and I think you'd just end up with more confusion than you desire. The short term issue is really about choice between the two plans," says Thompson.

"The CLASS plan is so fraught with problems that some experts predict an offering will never be made. They believe that the requirement to make the plan actuarially sound for 75 years will result in pricing that will be unattractive to employers who will fail to offer the plan, explains Slome.

"My advice would be: if you have a significant percentage of employees with poor health or very low incomes, then CLASS could be an ideal solution. If your employees are younger and consist of higher earners and more educated workers, the likelihood of CLASS being a significant benefit compared to private plans is minimal. There's really no reason to wait until 2012 to see what the government comes up with," Slome adds.

Thompson adds that "the administrative elements are probably of the most concern for employers especially if they have high-turnover populations" because the CLASS Act requires contributions of five years to reap the benefits. "Over time, the rules around CLASS will get modified and this will become the floor of coverage for long-term care in the

country.”

“This is a foot in the door by the Federal government. Look at what happened with [Medicare] Part D: they started with a big donut hole and then said ‘well, let’s close that.’ It may be that the rates and the coverage change over time or they’ll go down the route that this should be the floor for everybody and over time we’d like to see more people have supplemental coverage to fill in the gap,” Thompson concludes.

Whatever the intentions and consequences of the CLASS Act it’s clear that it will cause employees to take [new interest in what long-term care](#) has to offer. Once the barrage of questions begins, employers will have to answer for their decision of providing, or not, private or CLASS Act LTC insurance.

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