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# Health Policy Brief

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## **The CLASS Act.** The long-term care insurance program created by the Affordable Care Act will be reshaped to address concerns about solvency.

### WHAT'S THE ISSUE?

The Affordable Care Act of 2010 established the Community Living Assistance Services and Supports (CLASS) Plan, a voluntary, publicly administered insurance program. It is designed to help people should they become disabled and need long-term services and supports, including home care, adult day care, or a stay in a nursing home. In exchange for paying premiums during their healthy, working years, people would get a daily cash benefit to help defray the costs of these forms of assistance.

By law, CLASS must be self-sustaining through premiums and without the infusion of federal tax dollars. As currently structured, however, the program does not appear to be financially viable. Many policy makers have called for its repeal.

The Obama administration has acknowledged the program's shortcomings and is developing modifications that it says will ensure the program will remain solvent and self-financing for at least 75 years, as the law requires.

Regulations must be issued by the secretary of the US Department of Health and Human Services (HHS) no later than October 1, 2012. Some lawmakers, however, have questioned whether HHS has the legal authority to change certain CLASS provisions.

This policy brief examines the issues surrounding CLASS and options that policy makers may consider as they seek to make the program sustainable.

### WHAT'S THE BACKGROUND?

Roughly 12 million Americans of all ages need long-term supports and services because of disabling conditions—for example, multiple sclerosis, dementia, Parkinson's disease, or the effects of stroke. These conditions hinder people's ability to perform a range of "activities of daily living," including basic personal hygiene and grooming, dressing and undressing, feeding themselves, getting in and out of bed, going to the bathroom, and walking or using a wheelchair.

Many, but not all, of those who need long-term services and supports end up in nursing homes. But far more live in their own homes, with loved ones, or elsewhere in communities (Exhibit 1). In recent years, there has been a growing preference among many disabled people to remain in their own homes, and to stay out of nursing homes for as long as possible. Programs such as CLASS are aimed at making that more feasible.

**GROWING NEEDS FOR SUPPORTS:** Although people of all ages can be disabled, disability rates increase with age. About two-thirds of today's 65-year-olds are expected to need long-term services and supports to help them carry out these tasks at some point during their

lives. The number of elderly Americans age 65 and older needing long-term care services is expected to more than double to 16.1 million between now and 2050 (Exhibit 2).

**PUBLIC AND PRIVATE PROGRAMS:** Many Americans believe—incorrectly—that public programs such as Medicare and Medicaid will provide them with comprehensive coverage for long-term services and supports. In fact, however, Medicare will pay only for short-term nursing home stays in so-called skilled nursing facilities, for health care in the home following a hospital stay, or for home care when a patient has entered hospice.

Medicaid, the health care program for the poor administered jointly by federal and state governments, pays for nursing home stays and some forms of care in the home and community, but only after people have “spent down” a great deal of their savings and assets. Medicaid pays for 43 percent of total long-term care spending on nursing homes, home health, and home- and community-based services. Many states are finding it difficult to maintain Medicaid services in the face of continuing tax and revenue shortfalls, and budgetary pressures are likely to intensify as the population ages.

Most private health insurance policies provide little or no coverage for long-term care. People can buy private long-term care insurance policies to protect them should they become disabled, but only about one in 10 Americans age 55 and older do have long-term care insurance. These policies can be expensive, and usually offer a set of benefits for a defined period of time (typically for up to five years). For example, private long-term care insurance monthly premiums average around

\$184, and offer daily benefits in the range of \$160 a day for five years.

Private policies are underwritten, meaning that sicker and higher-risk people must pay more or may be unable to obtain coverage. Although a number of states offer tax credits for people who buy long-term care insurance, demand has never become as robust as many proponents had hoped.

## WHAT'S IN THE LAW?

In general, CLASS is designed to offer a new form of support for the middle class, and to enable them to make provisions in the event they ever become disabled and have difficulty caring for themselves for at least 90 continuous days. According to the language of the Affordable Care Act, any working adult 18 years and older will be able to make premium contributions and participate in the program. Nobody will be excluded on the basis of their health status or preexisting conditions.

Although participation in CLASS is intended to be voluntary, there is a federal “nudge” to participate, in that individuals will be assumed to be enrolled unless they explicitly opt out. This provision is similar to existing federal law regarding 401(k) savings plans, which allows employers to automatically enroll employees if they choose, and leave it to employees to make the active decision to opt out if they do not wish to participate. However, it is not clear how many employers will choose to offer the benefit.

**ELIGIBILITY CRITERIA:** As currently designed, people would need to pay premiums for five years before they were eligible to claim benefits under CLASS. Individuals also would need to have been actively employed or to have received earned income for at least three of the first five years of enrollment in the program (or be in the uniformed services on active duty and physically able to perform their duties).

The level of premiums was not specified in the law, but they can only be based on the age of a person when he or she enrolls in the program. Actual premium amounts are to be established annually by the HHS secretary and a new board of trustees of a planned CLASS Independence Fund that will hold the assets of the program. However, people with incomes below the federal poverty level and full-time students ages 18–21 will pay a monthly premium of only \$5 (subject to an adjustment for inflation in later years).

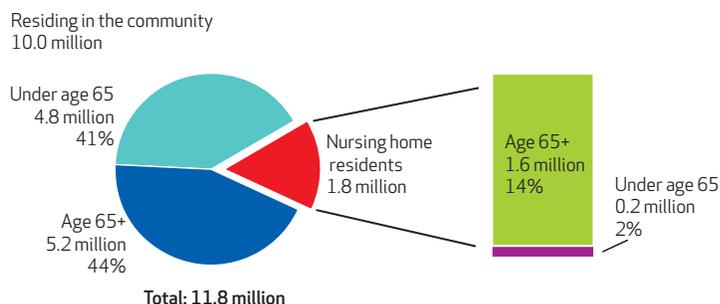
# 16.1 billion

## Needing long-term care

The number of Americans age 65 and older requiring long-term care by 2050.

## EXHIBIT 1

### Americans With Long-Term Care Needs, 2009



**SOURCES.** Urban Institute analysis of US Census Bureau's National Health Interview Survey, 2009, and American Community Survey, 2010. **NOTES** Nursing home statistics are annual averages from the period 2005–09. Percentages do not total 100% due to rounding.

# 75

## Years of solvency

The CLASS program must finance itself for at least 75 years without tax dollars.

To qualify for benefits under the law, a person will have to have trouble with at least two of the activities of daily living, such as bathing or feeding themselves, or require comparable assistance due to cognitive impairment. Benefits would consist of a daily cash payment equal to a minimum of \$50, indexed for inflation.

Recipients will have flexibility in how they use the CLASS benefit. They will be able to use the money to help pay for a nursing home (which currently can run \$75,000 a year) or an assisted living facility (currently about \$38,000 per year). Alternatively, they will be able to use the money to help pay for a home health aide or even for a family member to provide care at home, which is currently how millions get their home-based care. Recipients also can use the money for home modifications, such as installing a wheelchair ramp or an accessible shower, or for services such as transportation to medical appointments.

Other aspects of the CLASS program include the following:

- Under the law, there will be no lifetime limits, and benefits can continue for as long as a person remains qualified to receive them. The monthly cash benefit will be accessed through a debit card and any unused funds may be rolled over for up to 12 months.
- It is not yet clear when the CLASS program will go into effect. Employers will be encouraged to withhold workers' contributions for the CLASS program through auto-

matic payroll deductions, while self-employed people and workers whose employers do not participate will be able to enroll in other ways.

- People who participate in CLASS will also remain eligible for Medicaid, which will be the primary payer for their long-term care should they qualify. In that case, most of their CLASS benefits would then be required to go toward the cost of that care.

- It is not yet clear how enrollment in the CLASS program might interact with private long-term care insurance. Private insurance carriers may create a product to “wrap around” CLASS—that is, to provide additional benefits—similar to the way in which Medigap health insurance plans relate to Medicare. It is also possible that insurance companies may create new private policies to offer benefits similar to, and competing directly with, the CLASS program.

## WHAT ARE THE ISSUES?

The primary challenge to CLASS is financial, and arises from the program's design. Simply put, it could be difficult, if not impossible, to balance money coming into the program with the money that could ultimately flow out, and thus to create a program that would be solvent and sustainable.

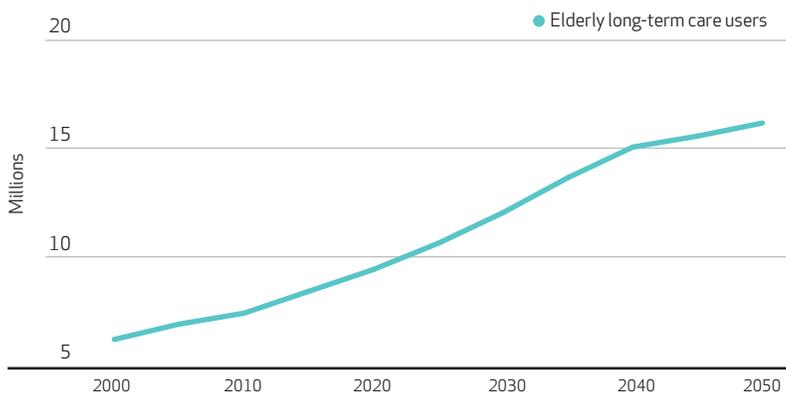
The greatest problem is the possibility that the program could be subject to a phenomenon known as “adverse selection.” In insurance, adverse selection means that people who need insurance the most are more likely to buy it compared to those less likely to need it.

In the case of CLASS, adverse selection could mean that people who already have some disability, or who know they are at high risk of needing long-term services and supports, would be more likely to enroll than younger and healthier people. That could result in limited enrollment and limited premium dollars coming into the program on one side, but big payouts in benefits coming out of the program on the other. A so-called “death spiral” might then result, as premiums rose to cover the high payouts, ultimately deterring even more lower-risk or younger people from participating in the program.

The relatively short waiting period—a minimum of five years between enrollment and the start of benefits, which would then be available for life—may contribute to adverse selection. People who see themselves as be-

## EXHIBIT 2

### Projected Elderly Long-Term Care Users



**SOURCE** The Lewin Group, “Medicaid and Long-Term Care: New Challenges, New Opportunities,” June 25, 2010. **NOTE** Projections based upon Lewin Group’s Long-Term Care Financing Model, 2010.

# 5

## Years to be vested

People could receive lifetime benefits after paying premiums for only five years.

**“The primary challenge to CLASS is financial, and arises from the program’s design.”**

ing at high risk of disability within that short time period might enroll quickly, while others could postpone enrollment until they, too, became at higher risk of needing care.

Setting the right premium levels may also be challenging. Adverse selection could be aggravated if the premiums are set too high. Steep premiums could discourage large numbers of people from enrolling, and those who do sign up could be those at the highest risk of needing the assistance.

Going too far in the other direction—setting premiums relatively low in order to encourage many younger and healthier people to enroll—also has risks. Under that approach, there might not be enough money coming in to pay out benefits, particularly if there were large numbers of people who needed assistance in the early years.

**COST ESTIMATES VARY:** Various entities have attempted to project the likely level of premiums under CLASS and have produced a wide range of estimates. The Congressional Budget Office (CBO) calculated that the average monthly premium would be \$123 (assuming that 10 million people or about 3.5 percent of those eligible enrolled). Other estimates are higher. The Boston College Center on Retirement Research estimated that premiums would have to average \$160 per month to be actuarially sound. The Office of the Actuary at the Centers for Medicare and Medicaid Services estimated that monthly premiums would have to average \$240 for the program to be financially sustainable.

If the federal government erred in setting premiums too low or too high, and had to alter the level of premiums sharply or frequently, people could come to see CLASS as unstable or unpredictable, further dampening demand. A program perceived as being out of balance is likely to be politically challenging to sustain.

The CBO forecast that in the short term, CLASS would reduce the federal deficit, but in the long term would increase it. In its 2010 analysis of the Affordable Care Act, CBO projected that CLASS would reduce the federal budget deficit by \$87 billion through 2021, largely because people will be paying premiums in, but little will be paid out for at least five years.

The CBO’s projections also include nearly \$2 billion in savings to Medicaid in the first decade, stemming from the likelihood that dis-

abled people will be able to stay in their homes because of the CLASS program and would be less likely to enter nursing homes, where their care would eventually be paid for by Medicaid. But by around 2030, when baby boomers start turning 85, CLASS would be paying out more than it took in, the CBO projected. As a result, the program would start running a deficit of tens of billions of dollars each decade.

**“REFORM OR REPEAL”:** In December 2010, President Barack Obama’s bipartisan National Commission on Fiscal Responsibility and Reform raised doubts about whether CLASS could be fixed in ways that were financially responsible and politically palatable. The commission recommended that if CLASS couldn’t be reformed, it should be repealed. A joint report from the Health Practice Council of the American Academy of Actuaries and the Society of Actuaries issued in November 2009 was also critical of CLASS, but concluded that there were several approaches, some reviewed below, that could remedy the fiscal imbalance.

One complication of potential repeal: As the CBO projections indicated, in the short term, the CLASS program was expected to narrow the federal budget deficit as premium contributions exceeded the payout of benefits. If CLASS were to be repealed, the fiscal implications of the Affordable Care Act would be substantially less rosy. There would be pressure on Congress to find budget cuts or increased revenues of \$11 billion in 2015 and \$21 billion annually through 2021 to offset the impact of the CLASS repeal.

## WHAT ARE THE OPTIONS?

One option would be to make CLASS mandatory for all Americans above a specified age. Covering everyone would guarantee a far more stable risk pool and would avert the death spiral. However, there appears to be broad consensus that this approach is not politically palatable, either now or in the near future.

Other options that may be considered include changing requirements for participating in CLASS or for collecting benefits. For example, the so-called vesting period could be extended so that people had to contribute premiums for a longer period of time before they became eligible for benefits. Determining the best mix of changes will be challenging, because CLASS is a new kind of program and there are relatively few historical data for policy makers and actuaries to build upon.

# \$87 billion

## Deficit reduction

CLASS would reduce the federal deficit as premiums are collected but little is paid out for at least five years.

**“CLASS is likely to face political challenges, now and in the future.”**

Here are some proposals that policy makers are likely to consider as they revise or restructure CLASS to make it more financially solvent:

**CHANGE WORK REQUIREMENTS:** Under its current design, although premiums can vary by age, CLASS cannot charge more for people who have a preexisting illness or disability. This prohibition creates the risk of adverse selection. After paying premiums for only five years, people can receive benefits for life, so those who are disabled or who think it is likely they will become so have every reason to enroll.

Consider this example: A low-income worker already has a disability or poor health that puts her at risk of disability. She enrolls in CLASS and pays premiums of only \$5 per month for five years. After paying just \$300, she becomes disabled enough to qualify for benefits and receives more than \$18,000 annually for eligible expenses for the rest of her life.

The imbalance wouldn't just apply to low-income workers. Middle-income workers paying much larger premiums, say \$123 per month for five years (\$7,380), would still be likely to receive much more from CLASS over their lifetimes than they paid in, even if they were only in the program for a few years.

One way to address this problem would be to tighten the requirements for people to work or to earn a reasonable amount of income while they are paying premiums into the program and before they qualify for benefits. Under current law, people could qualify for CLASS if they earned as little as \$1,200 a year. Imposing a higher income threshold for people paying premiums into the program could screen out those who were already disabled and unable to work steadily.

Some policy experts have also suggested requiring minimum employment of 20–30 hours a week. However, others maintain that requiring as many as 30 hours of weekly employment might exclude some healthy part-time workers who policy makers would like to draw into the risk pool.

**LENGTHEN THE VESTING PERIOD:** Currently, people have to pay premiums for only five years and work for three of them to qualify for benefits under CLASS. This vesting period could be increased to 10, 15, or even 20 years. Lengthening the vesting period could

increase revenues, reduce the problem of early windfalls, and reduce adverse selection. But if the vesting period is too long, it might dampen enrollment and bar CLASS benefits for most of the baby boomers. Aside from the potential political fallout of making that generation ineligible for CLASS, baby boomers would lose a valuable tool for coping with their own long-term care challenges.

**CHANGE THE PREMIUM STRUCTURE:** Under current law, CLASS premiums would be adjusted according to the age at which a person first enrolled. But once enrolled, premiums for that person would not increase. Alternative options would be to adjust the premiums for inflation or change them at some other specified rate—or set them in such a way that they would be very high for people who enrolled later in life, to strongly discourage late enrollment.

**INCENTIVIZE EMPLOYERS:** Without support from businesses, particularly large corporations, CLASS may struggle to enroll a critical mass of workers. At present, there is no incentive for employers to participate in the program by withholding premiums from employees' paychecks, which would add to employers' administrative overhead costs. After all, employers' health care or other costs aren't likely to be reduced through CLASS, since in most cases, benefits would not be received until after a worker retired or becomes disabled.

HHS officials have requested \$120 million in the fiscal year 2012 budget to educate employers and workers about the value of the CLASS program. They also have considered creating information technology tools to make enrollment easier. But so far, there has been little discussion among policy makers about creating incentives for employers to get involved, such as through a modest one-time tax break for employers that offer to withhold CLASS premiums from workers' paychecks during the program's first year.

**OTHER POSSIBILITIES:** Other approaches for change include the following: Imposing reenrollment penalties or waiting periods on people who stopped paying premiums for some time and later re-enrolled in CLASS; designing open-enrollment periods in ways that increase incentives to participate earlier in life; limiting benefit payouts to a set period of years, not for a person's lifetime; paying home care providers or others directly, rather than paying out cash to CLASS participants; and

# \$120 million

## Startup funds

Officials have requested funds to educate employers and workers about CLASS during fiscal year 2012.

stipulating that enrollees would have to have difficulty with multiple activities of daily living, not just two or three, to receive benefits.

Alternatively, the law could be amended to allow the infusion of federal funds to cover CLASS program shortfalls. This option, which could be seen as tantamount to a bailout, seems remote given the current political and deficit-sensitive climate. Another option would be to subsidize premiums to encourage higher enrollment by young and healthy people, creating a better risk pool from the start. Ideally, any changes would keep premiums affordable for young, healthy people.

## WHAT'S NEXT?

During the next few months, HHS officials will design three potential plans and present them to the new CLASS Independence Advisory Council, a federal panel that is to provide guidance on developing the program and setting premiums. Each proposal is likely to include some mix of the options outlined above. A final plan will be selected and made public later this year.

CLASS, however, is likely to face political challenges, now and in the future. Many Republicans—and some Democrats—remain deeply skeptical about what they view as a fiscal meltdown waiting to happen. Repeal bills have been introduced in the House and Senate. The Obama administration has urged lawmakers to not repeal CLASS but, rather, to allow it to be repaired. It is widely recognized that the program will need structural and financial adjustments as well as marketing and education pushes.

Assuming that CLASS can be structured in a fiscally viable way and is thus allowed to proceed, the success of CLASS may also depend on public perception. It is not yet clear whether CLASS would be viewed as being more reliable than private long-term care insurance because it has the backing of the federal government.

It is also possible that CLASS would be viewed as a risky potential addition to the nation's debt burden—and that people might be reluctant to pay into a program that they feared would not have the cash to deliver on its promises. Policy makers' actions in coming months will help to shape the way the CLASS story plays out. ■

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