

A Focus on Long-Term Care

5/20/2010

[Scott M. Hancock](#)

Amid the myriad acronyms contained in the Patient Protection and Affordable Care Act (PPACA), one that has not received much attention is CLASS –the Community Living Assistance Services and Supports Act. Effective January 1, 2011, CLASS establishes a national voluntary long-term insurance program. Details remain sketchy, but the new law does outline how CLASS will function and the benefits it will provide.

A Starting Point

To begin, the Secretary of Health and Human Services (HHS) must consider at least three alternative long-term care insurance plans and designate one as the CLASS Independence Benefit Plan by October 1, 2012. The CLASS Independence Benefit Plan will meet certain minimum requirements for premiums, benefits vesting and benefits.

Generally, premiums will be determined to ensure solvency of CLASS for 75 years. However, monthly premiums for individuals with income below the poverty line and for full-time students under age 22 who are actively employed will be limited to \$5 (adjusted for inflation).

There will be a 5-year vesting period and a requirement that individuals earn wages for at least 3 years during that time. Benefits will trigger for certain functional limitations expected to last longer than 90 days, including an inability to perform a minimum number of required daily living activities (eating, toileting, bathing, etc.) without substantial assistance and a need for substantial supervision to protect oneself from threats to health and safety because of substantial cognitive impairment.

On average, CLASS will provide a cash benefit of not less than \$50 per day. The amount of the cash benefit will be based on functional ability. The cash benefit will be paid on a daily or weekly basis and will not be subject to any lifetime limits.

Enrollment

For employers who choose to participate, actively working individuals 18 years or older may be automatically enrolled in CLASS, similar to automatic enrollment in a retirement plan, although individuals may waive the enrollment. Open enrollment will occur no more frequently than biennially and disenrollment will be possible annually.

Premiums

In general, monthly premiums will be paid through payroll deductions. One objective of CLASS is to keep premiums constant throughout enrollment. However, CLASS does authorize adjustments, (except for those eligible for the \$5 premium) if premiums and income to the CLASS Independence Fund are projected to be insufficient for the coming 20-year period. Such adjustments will not affect active enrollees who are age 65 or older, have paid premiums for at least 20 years, and are not actively employed.

Individuals who re-enroll after failing to pay premiums for 90 days will receive an age-adjustment to their premiums, equal to the premiums paid by similarly aged individuals who are enrolling for the first time. Those who are no longer students also will have their premiums age-adjusted. These adjustments will likely result in higher monthly premiums.

Individuals who re-enroll within 5 years will be credited with their previous premium payments for purposes of meeting the 5-year vesting period. Reenrollment after 5 years will result in a penalty for the months in which premiums were not paid, in addition to an age adjustment premiums.

Benefits

Benefits will begin when an application is approved. Beneficiaries will be able to defer payments and roll over such payments from month to month in favor of a lump-sum payment. Beneficiaries may not roll over payments from year to year, however.

Participants will receive their cash benefits through a special account called a Life Independence Account. They will be able to use their money to purchase non-medical services and support to maintain independence at home or in another residential setting. Such services and support include home modifications, assistive technology, accessible transportation, homemaker services, respite care, personal assistance services, home care aides and nursing support.

A beneficiary who is enrolled in Medicaid and is a patient in a hospital, nursing facility, facility for the mentally handicapped or facility for mental diseases will retain an amount equal to 5% of the cash benefit. Those receiving home-based or community-based services, or services for programs of all-inclusive care for the elderly will retain 50% of the cash benefit. In both cases, the remainder will be applied to costs for care. Medicaid will provide secondary coverage.

In addition, beneficiaries will be entitled to advocacy services from contracted state Protection and Advocacy Systems and advice and counseling from contracted entities.

Additional Considerations

Benefits provided under CLASS will supplement – but not supplant – other health care benefits provided under Medicaid or other federally funded health care programs. CLASS will not hinder eligibility for benefits under another government-funded assistance program. For federal tax purposes, CLASS will be treated the same way as a qualified long-term care insurance contract.

Conclusion

During the next year, HHS should provide additional details on the mechanics and benefits of CLASS. As those details become available, the WNJ Employee Benefits Practice Group will keep you updated. In the meantime, feel free to contact a member of the WNJ Employee Benefits Practice Group for clarification or additional information.