CHCS Center for Health Care Strategies, Inc.

Policy Brief

# Connecting the Long-Term Care Partnership and CLASS Act Insurance Programs

*By Mark R. Meiners, PhD, George Mason University*

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Long-term care insurance is one of the least-known benefits supported in the new health reform legislation.[1] The CLASS (Community Living Assistance Services and Supports) provisions included in the Patient Protection and Affordable Care Act (ACA) establish a publicly sponsored, voluntary long-term care insurance option for all working adults.[2] While key details of CLASS are yet to be resolved, it is important to prepare for this new insurance offering.[3] Its inclusion in health reform guarantees an increased focus on the need for long-term care insurance.

State Long-Term Care Partnership programs, the original public-private long-term care insurance strategy, and the new CLASS insurance program share the public policy goal of helping consumers prepare for the risk of catastrophic long-term care costs. States with Partnership programs promote the purchase of private long-term care insurance by offering consumers access to Medicaid under special eligibility rules if additional long-term care coverage (beyond what the policies provide) is needed.[4] Medicaid benefits from this approach by having people take responsibility for at least the initial phase of their long-term care through the use of private insurance. This policy brief is designed to help Partnership states inform consumers and other stakeholders in considering these two different approaches to insure against long-term care risk.

**IN BRIEF**

Deep within the Patient Protection and Affordable Care Act, the Community Living Assistance Services and Supports provision, known as the CLASS Act, establishes a first-ever publicly sponsored, voluntary long-term care insurance option for all working adults. State Long-Term Care Partnership programs, as the original public-private long-term care insurance strategy, and the CLASS insurance option share the common goal of helping consumers prepare for the risk of catastrophic long-term care costs.

This policy brief is designed to help the 40 states with existing Long-Term Care Partnership programs to inform consumers and other stakeholders in considering these two different approaches to insure against long-term care risk. The brief compares the two programs in a variety of areas, including program benefits, eligibility, affordability, intersections with Medicaid, and the need for supplementary products.

## How Do the Programs Compare?

Both the CLASS and Partnership programs are designed to address risk pooling and affordability issues in long-term care insurance that would otherwise limit the reach of the private market. CLASS is designed for all workers, but is especially valuable for those who can afford, but cannot obtain private insurance because of pre-existing conditions. In addition, CLASS offers coverage for full-time students under age 22 and working individuals who have incomes below the poverty level, but are not eligible for Medicaid. These individuals pay a modest premium of $5 per month, adjusted by the Consumer Price Index (CPI). These reduced premiums are subsidized by higher premiums paid by the broader CLASS risk-pool participants.

In contrast, Partnership coverage is designed for members of the middle class who are most at risk of spending their limited resources, then needing to depend on Medicaid. The key consumer incentive to purchase Partnership insurance is asset protection rules that allow Medicaid eligibility while retaining some assets. If a person's long-term care needs exceeds her/his coverage, she/he is allowed to keep assets up to the amount that the insurance plan has paid and still get help from Medicaid. For example, a policy could pay out as little as $50,000 and if the covered individual needed more care, the special "asset disregard" provisions offered by

Partnership states allow her or him to keep $50,000 of savings and receive extended care through Medicaid. Otherwise the person would have to spend all but about $2,000 of her/his savings. Partnership purchasers, however, must pass the insurer's health underwriting criteria for acceptable risk, whereas CLASS participants do not have to meet these underwriting criteria.

Both Partnership and CLASS seek to keep premiums affordable within their respective designs. A key goal of both programs is to build employer-based offerings so that younger, healthier workers buy insurance well in advance of when it is needed. This keeps premiums down by broadening the risk pool and lowering the pre-existing condition risk. Thus, both types of insurance require consumers to make long-term care a routine part of retirement planning.

### *Program Benefits*

CLASS insurance will pay cash benefits averaging $50 per day, indexed by the CPI, while allowing flexible use of the money. Daily cash payments could range as high as $100 per day and vary by the level of disability. Payments would be adjusted upward for inflation. Initial eligibility will require at least two or three (final choice pending) activities of daily living (ADLs) limitations, substantial cognitive impairments, or an impairment equivalent to these two disability standards. The exact eligibility criteria and payment scale will be determined through regulation, but the amounts are not intended to cover the full cost of care, especially at the nursing home level of dependency. In 2010, the national median costs for a semi-private room in a nursing home was $185 per day; for assisted living it was $106 per day; and for licensed home health aide services it was $19 an hour.[5]

Though limited, a $50-per-day benefit would more than double the average monthly payment received by social security retirees (i.e., $1,172).[6] On an annual basis, this is similar to the amounts paid in the Florida and New Jersey Cash and Counseling Programs,[7] and about twice what Medicaid spends on home- and community-based services (HCBS) waiver program beneficiaries.[8] Both cash and counseling and Medicaid HCBS waivers have been shown to help keep people out of nursing homes.

While CLASS offers a simple "one-size-fits-all" benefits approach, Partnership insurance offers a wide array of options that can be tailored to provide substantial daily benefits at an affordable premium. Typical Partnership choices include:

- Daily benefit amount (e.g., $100-$300);
- Waiting time for benefits to begin (e.g., 30-100 days); and
- Length of coverage (e.g., one to five years).

While cash benefit policies are available through the Partnership program, typical policies reimburse set amounts per day or month and allow benefits to be used as a flexible pool of dollars to be spent on either nursing home or community-based long-term services and supports.

CLASS premiums and benefits will be adjusted for inflation, but the specific approach or rate has not been set. This could be an important area of distinction between the two insurance programs. Under Partnership rules, compound inflation protection is required for purchasers age 60 or younger. Simple inflation adjustments are required for purchasers age 61 to 74. Only purchasers age 75 or older can forgo inflation protection. With Partnership insurance, the level of inflation protection is set by the state; a common choice is 5% compounded to approximate historical trends in long-term care inflation. But, with the recent dramatic declines in inflation, there has been movement to lower this to 3-4% or the rate of the CPI. It is important to note that higher inflation protection rates can result in significantly higher premiums. While lower inflation protection means lower premiums, which is appealing for purchasers, it also means larger uncovered segments of future risk if inflation heats up. Historically, medical inflation has significantly exceeded the general inflation rate.

Inflation protection in Partnership policies is usually built into the premium. Because Partnership premiums are designed to be level over the life of the policy, this substantially increases the premium (50% to 100% or more depending on age at purchase) over what would be required without inflation protection. Level premiums have been the industry standard because they encourage consumers to prefund the risk prior to retirement—a strong incentive to avoid letting the insurance lapse at older ages when benefits are most needed.

Forthcoming regulations will define the inflation adjustment approach for CLASS premiums, which may deviate from the typical Partnership approach. One option to help make premiums more affordable in the working years is to build in inflation protection over time (e.g., increasing premiums each year by CPI). This would make initial premiums lower than if inflation was automatically prefunded as is the case with Partnership insurance. If this approach is chosen for CLASS, premiums may need to be adjusted prior to retirement, transitioning to fixed levels with some out-year prefunding of inflation to avoid lapses in insurance. Notably,

this "Flexible Increasing Premium Option" idea has also been proposed for private market offerings, but has not been generally adopted.[10]

### *Eligibility*

CLASS is unique in that it provides a feasible option for individuals who are ineligible for private insurance. While CLASS is designed for all employed individuals, this insurance option is especially suitable for persons with disabilities and others who are not insurable. The CLASS benefit includes some limits to help avoid adverse selection (i.e., that those most likely to use the benefit soon after enrollment will dominate enrollment cohorts). For example, retirees and non-working people with disabilities are not eligible to enroll. In addition, there is a five-year waiting period during which an enrollee must pay premiums but cannot make a claim. In at least three of those years, the person must have a job paying an amount at least equal to one-quarter of Social Security coverage (i.e., $1,120 in 2010). These restrictions demonstrate that CLASS is not intended for those who already require constant long-term care. Thus, the CLASS option may be appealing to the estimated 19 percent of individuals with disabilities who are working.[11]

It is more difficult to qualify for Partnership insurance than for CLASS, as the former excludes people with select pre-existing conditions. While this is less of an issue for younger working adults, it is still a notable distinction between the two products.

CLASS may help reduce adverse selection by requiring participating employers to automatically enroll all employees in the program, with voluntary opt-out for those who do not want to participate. This approach has been used to encourage retirement savings in 401(k) plans with some success. However, critics note that those plans often involve some employer matching and more flexible use of funds than CLASS. It remains to be seen whether voluntary opt-out will be embraced by employers and employees, especially given competing demands on human resources staffs and consumers arising from other health care reform mandates.

### *Affordability*

Most Americans will be eligible for either CLASS or the Partnership, but eligibility absent affordability is meaningless to the average consumer. Unfortunately, affordability is a challenge for both the CLASS and Partnership programs. Starting in 2014, Medicaid will cover all individuals up to 133 percent of the federal poverty level. Is it reasonable to expect those individuals or others with incomes under $50,000 a year to buy long-term care insurance, whether CLASS or Partnership? This depends to a great extent on how low premiums can be kept while still providing meaningful benefits.

CLASS is designed to keep premiums low by offering a limited benefit ($50-100 per day), minimizing administrative expenses (3% compared to 30 to 40% in the private market), and substantially expanding the risk pool, especially with large numbers of healthy younger workers. As noted earlier, this last goal is shared by Partnership insurance, so success is predicated on the appeal and credibility of the CLASS option compared to private insurance offerings.

Partnership programs keep premiums low by emphasizing a range of limited benefit periods for what people are willing and able to pay. This "short and fat" strategy depends on insurers selling solid front-end coverage options, so that middle income people can choose a benefit amount consistent with perceived affordability.[12] The special asset protection incentive available in Partnership plans may make

## Why is Long-Term Care Insurance Important?

Most people are either in denial about or confused by the need for long-term care insurance. They often mistakenly believe that it is covered by their employer during working years and by Medicare during retirement. Neither of these beliefs is true. But long-term care is an important risk we all face.

Long-term care costs, especially nursing home expenditures, represent the largest single cost center for the Medicaid program. Medicaid is intended for people who are poor, not for the middle class who need long-term care. Medicare, our social insurance program for seniors and persons with disabilities, does not cover long-term, except for limited post-acute care. Without adequate private savings, middle-income people too often end up on Medicaid when they require extensive long-term care. Saving enough to cover this risk is very hard for most people and inefficient compared to risk pooling through insurance.

The combined Federal and state funding of Medicaid is the major reason for the public policy interest in long-term care insurance. The Kaiser Commission on Medicaid and the Uninsured estimates that Medicaid accounts for 40 percent of total long-term care spending.[9] Direct out-of-pocket spending accounts for 22 percent of national long-term care spending.

the less expensive benefit designs more meaningful for purchasers.

Affordability of CLASS products is dependent on the size of the risk pool, which itself will depend on the premium charged. Class premium estimates range from $123 to $240 per month depending primarily on the level of enrollment achieved. All else being equal, premiums will be higher with CLASS because some high-risk individuals who are excluded from buying Partnership insurance will be able to purchase CLASS insurance. However, if large numbers of individuals with "good" insurance risk are attracted to CLASS, this could minimize adverse selection and help keep premiums competitive.

## What about Medicaid?

CLASS and Partnership insurance interact with Medicaid quite differently. Long-term care insurance delays or eliminates the need for Medicaid most effectively when the insurance and a person's own savings combine to pay the whole bill for as long as possible. Waiting periods, daily co-pays, and other gaps in coverage must be self-insured and ideally should only be as large as can be easily handled out-of-pocket. The biggest gap occurs when the insurance runs out, of course, but front end out-of-pocket expenses can also add up if the insurance does not cover a large portion of the daily bill. On average, people who use formal long-term care only use it for less than two years, so strong front-end protection is especially helpful.[13]

The CLASS cash payment of $50-$100 per day, based on level of need, is intended to help with basic services and supports throughout the life of the policyholder, once he or she qualifies for benefits. If that cash payment is not enough to keep someone from spending down and becoming Medicaid eligible, CLASS benefits will be supplemented by Medicaid payments for Medicaid-covered services. CLASS enrollees who receive HCBS are allowed to retain 50% of the CLASS benefit; the other half is used to offset Medicaid's costs. For institutional care, Medicaid receives 95% of the CLASS payment and the beneficiary keeps 5%. In short, some CLASS premiums will eventually subsidize services that otherwise would have been fully borne by Medicaid. This feature makes CLASS insurance cost-effective relative to projected future Medicaid expenditures.

In contrast to the CLASS "long and lean" benefit structure, Partnership favors a "short and fat" benefit structure. This approach encourages the purchase of front-end coverage with minimal gaps; most people with the equivalent of one to three years of insurance can cover the average risk and avoid Medicaid entirely. If Medicaid coverage is needed, Partnership insurance allows individuals to retain assets they otherwise would have had to spend down to become Medicaid-eligible. Conversely, Partnership insurance results in Medicaid savings if most policyholders end up with insurance that pays more than they could have spent from their savings on long-term care before becoming Medicaid eligible. Indeed, several of the initial states to offer Partnership policies have estimated that their programs are resulting in Medicaid savings.[14]

## CLASS Supplementation

The limited cash benefit and one-size-fits-all approach of CLASS along with the flexibility of Partnership insurance suggest the potential for private wrap-around products to fill gaps in the CLASS benefit. Such a product could provide additional front- and back-end protection and further reduce Medicaid spending. For example, the five-year vesting period for CLASS is designed to minimize adverse selection. During this time period, there is no coverage for unforeseen accidents or illnesses that might qualify for CLASS benefits. Consumers who are insurable could fill that gap with private insurance.

Private insurance policies are effective immediately upon finalization of the contract, and benefits typically begin after a limited waiting period of 30 to 90 days (determined by the purchaser) following eligibility. Once the five-year CLASS vesting period is met, private insurance could be a complimentary payer for non-medical services and a supplementary payer for most other situations until the dollar value of the benefits runs out. In this scenario, it is possible that the CLASS and Partnership programs could operate independently, while still providing additional protection for consumers willing to pay premiums for both products.

The feasibility of a private supplemental market emerging to fill gaps in CLASS coverage largely depends on the affordability of CLASS. If the cost of CLASS is low enough and the value is appealing to those interested in long-term care insurance, then a supplemental market could arise. However, most individuals seeking long-term care insurance likely can afford only one policy, and selection issues favor Partnership insurance as a better buy for those who are insurable.

## Other Considerations

Several other program features may make Partnership coverage more appealing to eligible individuals. For example,

spousal discounts are typical with Partnership insurance, but are not available with CLASS. Indeed, a spouse is not eligible for CLASS, if she/he does not meet the program's employment rules.

Conversely, some features that may appeal to consumers, such as cash benefits and lifetime coverage options, are typically not offered in Partnership programs. Such features are available in the private market, but are relatively costly to support. Since a cash benefit is easy and appealing to access, special monitoring and/or higher premiums are necessary. Lifetime coverage is open-ended and offers little or no incentive to be frugal with the insurance payout. For these reasons, Partnership programs usually avoid these features.

If CLASS becomes popular, private insurance will likely respond with competitive coverage options. For example, even if CLASS eliminated adverse risk selection, a Partnership insurance plan that resembles CLASS would likely emerge in the marketplace (most likely limiting benefits to a one to five year time period rather than lifetime). Partnership options would offer a more competitive price, because it would eliminate the tail-end of the risk and encourage more careful benefit use.

Furthermore, while long-term services and supports such as home modifications, transportation purchases, and homemaker services – all allowable with the CLASS cash benefit – are not typically favored by private insurance products, new products including these features will emerge if insurers believe it will help sell more long-term care insurance. These benefits are already part of alternative plan of care strategies offered by private insurers.

### *Program Start-Up*

Many details of CLASS, including the roll-out date as well as benefits and premium amounts, are still being determined.[15] While the CLASS Act is effective in 2011, regulations from the Secretary of Health and Human Services are not expected until November of 2012; thus, the actual start-up could be 2013.

What does this delay mean for individuals currently in the market for long-term care insurance? Individuals who are currently insurable may not want to wait for the CLASS option per the reasons outlined above. Partnership states have been working to help their citizens understand the considerations in choosing a good private insurance policy.[16] Interested consumers should explore a private market option and Partnership states should help guide them to qualifying products. Waiting could result in higher premiums, because premiums rise with the age at time of purchase. More importantly, waiting increases the risk that conditions occur that could make an individual uninsurable.

## Looking Ahead

One widely acknowledged benefit of CLASS is an increase in public awareness about the importance of insuring against long-term care risk. Another benefit is a new coverage option for individuals who do not meet Partnership underwriting requirements. However, the CLASS benefit structure is not right for everyone, so it will be important for the states and the federal Department of Health and Human Services (DHHS) to support state Partnerships and educate consumers about available long-term care insurance options.

Both CLASS and Partnership insurance are designed to relieve stress on Medicaid budgets by helping people prepare for potential long-term care needs. The two programs offer very different models of coverage that will be tested in the marketplace. Notably, this market test will unfold at a time when major insurers have left the private long-term care insurance market.[17] Some remaining major carriers also recently announced significant unanticipated premium increases due to higher-than-expected claims and lower-than-expected interest rate earnings and lapse rates. Both CLASS and Partnership programs will have to convince the public, without any historical proof, that the products are accurately priced.

If public education efforts are successful and premiums are perceived as reasonable and reliable, larger risk pools will help balance out risk-selection concerns in both programs. CLASS will attract healthier risks than expected and Partnership insurers will sell more "short and fat" products to middle-income purchasers, a part of the market that has been underdeveloped. This would be a step toward solving the nation's public policy challenge around long-term care.

As the DHHS develops CLASS, it will need to address numerous consumer protection issues including premium waivers while in benefit, protection against the risk of policy lapse, and provisions regarding renewability. Even CLASS' strongest supporters acknowledge that the law may need some modifications to be successful.[18] The work of the Partnership states and the lessons learned from the private long-term care market provide a wealth of experience that can help improve both programs for consumers.

## Endnotes

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## About the Author

Mark R. Meiners, PhD, is a Professor of Health Administration and Policy in the College of Health and Human Services at George Mason University. Among his noteworthy accomplishments is his leadership of the Robert Wood Johnson Foundation (RWJF) Medicare/Medicaid Integration Program, an initiative designed to help states develop new systems of care that better coordinate acute and long-term care. In addition he has led the Partnership for Long-Term Care since its beginning in 1987.

### Resources for States

The Long-Term Care Partnership Expansion project, coordinated by the Center for Health Care Strategies (CHCS), worked with 10 states — Arkansas, Colorado, Georgia, Michigan, Minnesota, Oklahoma, Ohio, South Dakota, Texas, and Virginia — to help develop Partnership programs. This brief is one in a series of technical assistance resources that CHCS produced to help additional states design effective long-term care strategies.

For information about state activities and a library of resources, visit www.chcs.org.

### About the Center for Health Care Strategies

The Center for Health Care Strategies is a nonprofit health policy resource center dedicated to improving the quality and cost effectiveness of health care services for low-income populations and people with chronic illnesses and disabilities. CHCS works with state and federal agencies, health plans, and providers to develop innovative programs that better serve people with complex and high-cost health care needs.