



Guide to
CLASS
(Title XXXII The Patient Protection
and Affordable Care Act)
and
Long Term
Care Planning

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What is CLASS?

When President Obama signed The Patient Protection and Affordable Care Act into law on 3/23/10, Title XXXII of the law created **Community Living Assistance Services and Supports (CLASS)**. The purpose of CLASS is “to establish a national voluntary insurance program for purchasing community living assistance services and supports.”¹ CLASS is intended to provide tools to allow people with functional limitations to maintain their independence, live in their communities, establish an infrastructure to address their needs, alleviate burdens on family caregivers, and address institutional bias by funding community choices.²

Lifespans are increasing, the baby boomers are reaching retirement age, and government programs such as Medicare, Medicaid and Social Security are challenged by ever-worsening economic realities. Awareness of the importance of long term care planning is growing. Since current government programs were not designed to pay for long term care services for all Americans, the inclusion of CLASS in the Patient Protection and Affordable Care Act can be viewed as the logical response of a concerned Congress.

Although private disability insurance, the Social Security Disability Income program, and worker's compensation insurance all cover similar risks, they differ from one another. The same is true of CLASS and private long term care insurance (LTCi); the covered risks may be similar, but the terms and benefits could be different.

This *Guide to CLASS* booklet is our best interpretation of the program based on information as of the date of this booklet (see back cover). Contact us if you have questions related to CLASS, long term care planning, or private LTCi.

¹ Public Law 111-148. Sec. (3201)

² Ibid.




How Does CLASS Impact Long Term Care Planning?

Part of long term care planning involves deciding how to pay for the care you might need. CLASS is another option to pay for some types of future long term care. CLASS is different from private long term care insurance (LTCi). The examples below illustrate three differences.

Private long term care insurance provides immediate coverage, CLASS does not. When a private LTCi policy is issued, and the premium is paid, coverage is in force. Imagine that your agent delivered a policy to you, and the next day you suffered a stroke or were in a severe car accident. If you then needed long term care, that claim could be eligible for payment, subject to policy terms. In contrast, CLASS has strict vesting rules, which are explained in more detail on page 12 (Post-CLASS Long Term Care Planning for *Employers and Associations*), and on page 15 (Post-CLASS *Personal* Long Term Care Planning). There is a minimum five year premium-paying period (as well as income requirements) to be vested, or eligible for CLASS benefits.

CLASS requires enrollees to be employed, with a minimum earnings threshold. This means that non-working family members are not eligible to enroll in CLASS. Private long term care insurance can be applied for even if you are not employed. People who stop working or retire before they have paid into CLASS during each of 3 calendar years in the first 5 years of their enrollment will not ever be eligible for CLASS claims payments.

CLASS enrollees are not asked any health questions. This means that employed people who would not be eligible for private LTCi can enroll in CLASS. Examples of such people include those who have been diagnosed with multiple sclerosis, who walk with the use of a three-pronged cane, or



who are overweight with uncontrolled diabetes. In contrast, private long term care insurance reviews the health of applicants, in what is called the underwriting process. This health review is critical to whether or not a policy is issued.

It is argued that, without health underwriting, only unhealthy people would apply for insurance, and many people would wait until they became old or health-compromised to apply. This phenomenon is called adverse selection. Without health underwriting, if a high number of unhealthy people sign up for insurance, there would not be enough premium dollars coming in to both keep premiums reasonable and to pay claims.

Later in this booklet there are sections on Post-CLASS long term care planning for both businesses and individuals. These sections should help you determine if and how to modify **your** long term care planning to account for CLASS.



What Is Known About CLASS

CLASS plan benefit triggers are expected to be similar to private long term care insurance: 2 or 3 activities of daily living (ADLs), or substantial cognitive impairment, expected to last more than 90 continuous days.

The benefits will be paid on a daily or weekly basis in cash into a Life Independence Account. There is no lifetime or aggregate limit.³ Plan benefits can be used to buy an assortment of services, including assistance by a family member, and will be increased by the CPI. Once the 3-calendar-year earned income requirement and the 5 year vesting requirement have been met, there are no elimination periods or deductibles.

How Much Exactly IS The Daily Benefit?


The statute dictates that the "minimum required amount" will be not less than an **average of \$50 per day**. This, by definition, means that some benefits could be less than \$50/day. If, for example, an average benefit is \$50, and one benefit were \$75/day, another benefit of \$25/day would yield an average \$50 daily benefit.⁴ In addition, the benefit amount is scaled to functional ability,⁵ with between 2 and 6 benefit level amounts.

Though an average daily benefit of \$50 will be helpful for many situations, it is woefully inadequate to handle many home care needs. The national average cost of a home health aide is approximately \$19/hour, meaning if one were to receive a \$50 daily CLASS benefit, that would pay for less than 3 hours of home health aide care. In contrast, many states require that private

³ Public Law 111-148. Sec. (3203)

⁴ Ibid.

⁵ Ibid.



long term care insurance (LTCi) policies instead have a MINIMUM benefit level of \$50 day (and policies are available with a benefit as high as \$500/day).

Tax Treatment

CLASS shall be treated for purposes of the Internal Revenue Code of 1986 in the same manner as a qualified long term care insurance contract.

CLASS Enrollees Who Are On Medicaid

When a CLASS beneficiary is in Medicaid, his or her payments are modified:⁶

INSTITUTIONALIZED: the beneficiary receives 5% of the cash benefit, with the balance going to the institution;

HOME/COMMUNITY-BASED SERVICES: the beneficiary receives 50% of the cash benefit, with the balance paid to the enrollee's state of residence.⁷

Premiums

Perhaps no part of CLASS is more controversial than premiums. Like private LTCi, the monthly CLASS premium is designed to remain the same throughout their enrollment.


However, there are two important facts to consider regarding whether someone's premium will, in fact, remain the same. First, the law requires that premiums be recalculated if required for program solvency.⁸ Second, the law states that no taxpayer funds can be used to pay benefits.⁹ This means that, once the CLASS premiums are announced, they may remain unchanged for

⁶ Public Law 111-148. Sec. (3205)

⁹ Public Law 111-148. Sec. (3208)

⁷ Ibid.

⁸ Public Law 111-148. Sec. (3203)



years, or, if the pricing won't support program claims, premiums will have to be increased. The CLASS Board of Trustees of the CLASS Independence Fund will issue a report each April 1, so it is possible that the premiums could be adjusted on a yearly basis, if the Trustees anticipate a financial shortfall.

There is no health underwriting¹⁰ for the CLASS program, so it is widely believed that the plan will be most attractive to and enroll a much less healthy subpopulation than the U.S. population in general. CLASS will likely attract a much less healthy group of people than those who can qualify for private LTCi, which requires health underwriting.

The law, unlike prior versions of the legislation, does not mention a specific premium, except to say that students and those below the poverty level will pay a monthly premium of only \$5.¹¹ The law protects people age 65+ from rate hikes subject to certain conditions.¹²

As of the writing of this booklet, no one yet knows what CLASS premiums will be (see the timetable from the law in the next section). However, many people believe that the premiums could, by necessity, be higher than medically-underwritten private LTCi.

What do organizations such as the **Congressional Budget Office (CBO)** and the government's own **Centers for Medicare and Medicaid Services (CMS)** project for CLASS premiums? The projections vary, not surprisingly, based on factors such as assumed participation, interest rates, and claims. The CBO estimated a monthly premium of \$123 for an average benefit of \$75/day.¹³ Since CLASS' stated average daily benefit is \$50/day, or 67%

¹⁰ Public Law 111-148. Sec. (3203)

¹¹ Ibid.

¹² Ibid.

¹³ "Community Living Assistance Services and Supports (CLASS) Provisions in the Patient Protection and Affordable Care Act (PPACA)" Congressional Research Service, authors Mulvey, Colello, issued June 4, 2010, 7-5700, www.crs.gov R40842 (p. 6)



of \$75, we can calculate that the CBO believes the monthly premium will be approximately \$82 (67% of \$123).

The CMS projected CLASS premium is much higher, \$240/month for \$50 per day average benefit.

CMS also notes that since students and low-income enrollees will only pay \$5/month, this means that all enrollees will be paying a higher premium to subsidize the \$5 premiums.¹⁴

The Centers for Medicare and Medicaid Services (CMS) commented on their premium projection, stating that, “in general, a voluntary, unsubsidized, and non-underwritten insurance program such as CLASS faces a significant risk of failure as a result of adverse selection by participants.”

¹⁴“Community Living Assistance Services and Supports (CLASS) Provisions in the Patient Protection and Affordable Care Act (PPACA)” Congressional Research Service, authors Mulvey, Colello, issued June 4, 2010, 7-5700, www.crs.gov R40842 (p. 6)



CLASS Unknowns

There is still much uncertainty surrounding CLASS. As of the writing of this booklet, significant unanswered questions include items such as:

- what the monthly premium will be;
- whether premiums need to be paid when collecting benefits, or whether there is a waiver of premium provision;
- how the benefit amount will be varied based on functional ability;¹⁵
- what the range of daily benefits will be to accommodate an average daily benefit of \$50.¹⁶

Timeline of Key Implementation Dates for CLASS Provisions in PPACA¹⁷

Implementation Date	Section Number	Provision
By June 21, 2010	Sec. 8002(c)	Requires Secretary to establish a Personal Care Attendants Workforce Advisory Panel for the purpose of examining and advising the Secretary and Congress on workforce issues related to personal care attendants.

¹⁵ Public Law 111-148. Sec. (3203)

¹⁶ Ibid.

¹⁷ *Community Living Assistance Services and Supports (CLASS) Provisions in the Patient Protection and Affordable Care Act (PPACA)*, Congressional Research Service, June 4, 2010, 7-5700, www.crs.gov R40842 (p. 14-15)



**Timeline of Key Implementation Dates for
CLASS Provisions in PPACA (continued)**

Implementation Date	Section Number	Provision
January 1, 2011	Sec. 8002(a)	Establishes the CLASS Program, as specified.
January 1, 2011	Sec. 8002(b)	Addresses adequate infrastructure for the provision of personal care attendants. Specifically, requires states, no later than March 23, 2012, to (1) assess whether certain providers have the capacity to serve as fiscal agents and provide employment-related benefits to personal care attendants who provide services to CLASS beneficiaries; (2) designate or create entities to serve as fiscal agents; and (3) ensure such designation does not alter or impede existing consumer-directed home and community services delivery systems or inhibit individuals from relying on family members for personal care services.
January 1, 2011	Sec. 8002(d)	Requires the inclusion of information on supplemental coverage from the CLASS program in the National Clearinghouse for Long-Term Care Information.

Timeline of Key Implementation Dates for CLASS Provisions in PPACA (continued)

Implementation Date	Section Number	Provision
By January 1, 2012	Sec. 8002(a)	Requires the Secretary to (1) establish an Eligibility Assessment System; (2) enter into agreement with the Protection and Advocacy System for each state; and (3) enter into agreements with public and private entities to provide advice and assistance counseling.
By October 1, 2012	Sec. 8002(a)	Requires the Secretary to designate a benefit plan as the CLASS Independence Benefit Plan and publish such designation, along with details of the plan and the reasons for the Secretary's selection, in a final rule that allows for a public comment period.
Beg. Jan. 1, 2014	Sec. 8002(a)	Requires the Secretary to submit an annual report to Congress on the CLASS program, as specified.

While there is much speculation on CLASS, our organization is committed to being your source for information as it becomes available. Contact us if you have questions related to CLASS, long term care planning, or private long term care insurance (LTCi).



Post-CLASS Long Term Care Planning for *Employers and Associations*

Employers who choose to participate will bring CLASS to employees who meet a relatively low minimum earnings threshold. CLASS is an opt-out plan with an annual disenrollment period (explained below). There are many payroll, education and counseling considerations. Here are some answers to common questions.

My organization offers a private long term care insurance program already. How will CLASS impact it?


There is no reason to make changes to any existing private long term care insurance (LTCi) plan offering at this point.

Because CLASS is offered with no medical questions, it will offer a way for employees who might not qualify for private LTCi for health reasons to get some coverage.

However, CLASS is different than private LTCi. For example, under CLASS, in order to be eligible for benefits, an eligible enrollee must first:

- **pay premium for 60 months;** AND
- earn for at least **3 calendar years** amounts at least equal to what is needed to be credited with a quarter of coverage under section 213(d) of the Social Security Act (in the first five years of paying CLASS premiums).

This means that someone who loses his or her job, stops working, retires, or becomes disabled and cannot work before meeting the requirements explained in the two bullets above is not eligible to collect benefits from



CLASS. In contrast, private LTCi insureds enjoy coverage that starts immediately (no 5 year wait), whether or not they earn income.


Since private LTCi insureds enjoy day one coverage, those who want to get coverage under CLASS should meanwhile have private LTCi at least until their CLASS coverage has vested.

It may help you to frame private LTCi and CLASS in the same way that you now consider private disability insurance as compared to Social Security Disability Income or Workers Compensation. Although these plans cover similar risks, they are different. Some employees will still choose to purchase private insurance even though a similar risk is covered elsewhere.

My company was just thinking of adding private long term care insurance as a voluntary benefit. Should the existence of CLASS change our decision?

No. This is a great time to bring in private LTCi as a voluntary benefit. Awareness of the need for good protection against the costs of long-term care is growing and will continue to grow as CLASS details become known.

The presence of private LTCi among employees and their family members can significantly reduce employee absenteeism and stress for both your employee and their colleagues when a family member needs long term care. As an employer, you are probably aware that many people take sick time, extended leaves, request part-time hours or even quit their job in response to a caregiving need. In addition to the devastating impact on an employee, the impact of a long term care need on your business and their fellow workers can be dramatic.



There are many reasons that your employees and your company stand to lose if you delay adding private LTCi as a voluntary benefit. Even if every employee signed up for CLASS in 2013, many claims that happened through most of 2017 could not be paid immediately upon proof of claim, due to the 5 year vesting requirement. In contrast, Day 1 coverage and eligibility for claims payment (subject to policy terms) can be obtained by offering private LTCi instead of, or in addition to, CLASS.

Encouraging your employees and their families to do proper long term care planning can pay off in many ways, for everyone.

Will my company have to offer CLASS?

No. CLASS will be offered on an opt-out basis to employees by employers who choose to participate. Details on participation incentives or disincentives are not yet known. Participation in CLASS will be voluntary at the employer level.

“Enrollment procedures for employers in the CLASS program are intended to be similar to those currently established for 401(k)...key difference...employers...are required to use automatic enrollment procedures.” Community Living Assistance Services and Supports (CLASS) Provisions in the Patient Protection and Affordable Care Act (PPACA), Congressional Research Service, June 4, 2010, 7-5700, R40842, page 5, www.crs.gov



Post-CLASS *Personal* Long Term Care Planning


The burden of providing long term care has fallen primarily on either family members who provide unpaid care, or on the government's means-tested Medicaid program. With funding split between the federal government and the tax revenue of each state, Medicaid is the largest single payment source for professional long term care in this country. The second-largest payment source is Medicare, which pays only in certain limited circumstances, and has well-known fiscal pressures of its own.

Awareness of the importance of long term care planning is growing among the public as lifespans increase, more baby boomers reach retirement age, and government programs are challenged by ever-worsening economic realities.

Personal planning points for CLASS:

- you must be employed for 3 calendar years AND pay into CLASS for 60 months for a claim to be eligible for payment;
- a need for care that arises soon after enrollment is not immediately eligible for CLASS benefits payment (the earned income requirement and the 5-year paying-premium requirement must both been met first);
- the average daily benefit under the class program is \$50/day (some daily benefits could be higher, and some could be lower) and the payments last as long as you need care;
- CLASS premiums are unknown and are required to change if needed for CLASS to remain sound financially.

If the first available enrollment date is in 2013, those first enrollees will not be eligible for any CLASS benefits until 60 months later, or sometime in 2018.



Since private long term care insurance (LTCi) provides immediate coverage once in force, prudent planning compels all individuals whose health allows them to qualify for and who are able to afford private LTCi to do so as soon as possible. Even those employed individuals who want to get coverage under CLASS should have private LTCi until their CLASS coverage has vested (5 years after purchase).

The best advice for any individual concerned about the cost and availability of long term care services is to consider the purchase of a private LTCi program now, and, once CLASS details are known, to consider if any changes are recommended. Only by applying for private LTCi now can you lock in today's health, and avoid paying higher premiums down the road, were you to ever want to purchase private LTCi.

The inclusion of CLASS, a national insurance program for purchasing home-based long term services and supports, in the Patient Protection and Affordable Care Act can be viewed as the logical response of a concerned Congress. Like many experts, politicians are aware that the current system, paying for long-term care primarily with Medicaid, an unfunded entitlement-like program, is unsustainable. Along with other government incentives to do long term care planning, the federal government's message is clear: individuals need to do personal long term care planning.

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HHealth care reform signed into law in late March 2010 included a new government program to encourage citizens to plan for future community-based care. This program may impact you, your family, and your company. This booklet is designed to help you understand CLASS. The insurance professional who gave you this booklet can answer any questions that you may have.

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