

KENNEDY-PALLONE-DINGELL OPEN DOORS OF OPPORTUNITY BY HELPING INDIVIDUALS OVERCOME BARRIERS TO INDEPENDENCE

Bicameral Insurance Program Would Help Those With Functional Impairments Gain Independence

March 25, 2009
FOR IMMEDIATE RELEASE

**Summary of legislation and support letter included below

WASHINGTON, D.C.— Today, Senator Edward Kennedy, Congressmen Frank Pallone and John Dingell introduced the Community Living Assistance Services and Supports (CLASS) Act of 2009 that would create an insurance program for adults who become functionally disabled.

The measure would provide a cash benefit to help obtain services and supports, while providing those with disabilities more choices and opportunities to live and participate in their communities.

Currently there are 10 million Americans in need of long term services and supports, and the number is expected to increase to near 15 million by 2020. Too often, many individuals are forced to live in poverty just so they can qualify for Medicaid to get the care they need, which is counter to the American way.

Because of its common sense approach to helping Americans take their future into their own hands while saving taxpayer dollars, the CLASS Act has gained the support of almost 100 groups representing the disabled, the elderly, and America's workers. Today, these groups sent a strong letter to President Obama urging him to include long term services and supports in the nation's health care reform initiative.

"Too many Americans are perfectly capable of living a life in the community, but are denied the supports they need," said Senator Kennedy. "They languish in needless circumstances with no choice about how or where to obtain these services --- this is an issue I intend to address in the reform of the nation's health care system. Too often, they have to give up the American Dream -- the dignity of a job, a home, and a family -- so they can qualify for Medicaid, the only program that will support them. The bill we propose is a long overdue effort to offer greater dignity, greater hope, and greater opportunity. It makes a simple pact with all Americans -- 'If you work hard and contribute, society will take care of you when you fall on hard times.'"

"As America continues to age, we are faced with an impending crisis in long-term care that has been ignored for too long," Congressman Pallone said. "As we work to reform our health care system, we must not forget those Americans in need of community services. The CLASS Act offers a new approach that is smart and compassionate. It will give those with functional disabilities the means to maintain their lifestyles, to stay with their families and to remain productive members of their communities."

"America has always been the land of opportunity, a country where doors are opened for those who couldn't get opportunities elsewhere. The CLASS Act will open doors for people eager to work and contribute to their communities. For those functionally disabled who can work and maintain independent lives, this legislation will create incredible opportunities. This bill is both a reflection of America's decency and its core belief that anyone who wants to work hard and contribute to our society should be able to do so," said Congressman Dingell.

The CLASS Act is based on the principles of independence, choice, and empowerment. It is the framework needed to help individuals gain the access they need to live independently. The CLASS Act does this by establishing a national insurance program to be financed by voluntary payroll deductions to provide benefits to adults who become severely functionally impaired. To qualify for

Contact

Washington Office
317 Russell Senate
Building
Washington D.C.
20510
p (202) 224-4543
f (202) 224-2417

**Massachusetts
Office**
2400 JFK Building
Boston, MA 02203
p (617) 565-3170
p (877) 472-9014
f (617) 565-3183

benefits, individuals must be 18 years old and have contributed to the program at least 5 years. All working adults will be automatically enrolled in the program, unless they choose not to be.

This legislation builds on the promise and the possibility of the Americans with Disabilities Act, and respects the rights and dignity of all Americans — especially our disabled and senior citizens, to live their life as they choose.

A summary of the legislation is below.

Summary of the CLASS Act of 2009
(Community Living Assistance Services and Supports Act)

Purpose of the Bill

To help adults with severe functional impairments obtain the services and supports they need to stay functional and independent, while providing them with choices about community participation, education and employment.

Background

Currently there are 10 million Americans in need of long term services and supports, and the number is expected to increase to near 15 million by 2020.

Most private-sector disability or long-term care insurance plans are constrained in the insurance protection they can offer at an affordable price, and neither Supplemental Security Insurance (SSI) nor Old, Age, Survivors, and Disability Insurance (OASDI) programs have any benefit differentials related to the extent and character of the disability.

Thus, most Americans who have or develop severe functional impairments can only access coverage for the services critical to their independence (such as housing modifications, assistive technologies, transportation, and personal assistance services), through Medicaid. Their reliance on Medicaid for critical support services creates a strong incentive for them to “spend down” assets and remain poor and unemployed. With Medicaid paying 50% of the costs of long term services, increased expenditures on long term services are expected to add \$44 billion annually to the cost of Medicaid over the next decade.

Overview of the Legislation

The CLASS Act will offer an alternative path. It will create a new national insurance program to help adults who have or develop functional impairments to remain independent, employed, and stay a part of their community.

Financed through voluntary payroll deductions (with opt-out enrollment like Medicare Part B), this legislation will help remove barriers to independence and choice (e.g., housing modification, assistive technologies, personal assistance services, transportation) that can be overwhelmingly costly, by providing a cash benefit to those individuals who are unable to perform 2 or more functional activities of daily living.

The large risk pool to be created by this program approach will make added coverage much more affordable than it is currently, thereby reducing the incentives for people with severe impairments to “spend down” to Medicaid. It will give individuals added choice and access to supports without requiring them to become impoverished to qualify.

The CLASS Act is an important step in the evolution of public policy toward a new focus on helping individuals overcome barriers to independence that they may confront due to severe functional impairments. It is an important extension of concepts embodied in the Individuals with Disabilities Education Act (IDEA), the Americans with Disabilities Act of 1990 (ADA), and Ticket to Work and Work Incentives Improvement Act of 1999.

SPECIFICS OF THE BILL

SCOPE: _____

The CLASS Act will establish a national insurance program, financed by voluntary premium payments to be collected through payroll withholding and placed in a “National Independence Fund.” The Department of Health and Human Services will manage the Fund as a new insurance program, and may enter into contractual agreements with those entities that states direct to assume administrative/program implementation roles.

Enrollment in the Program:

Any individual who is at least 18 years old and actively working will be automatically enrolled (unless they opt out), and pay their premiums through payroll deduction or another alternative method. Any non-working spouse may enroll in the program and pay their premiums through an alternative payment procedure.

Triggering the Benefit:

To qualify for CLASS Act benefits, individuals must be at least 18 years old and have contributed to the program during at least 5 years. Eligibility for benefits will be determined by state disability determination centers and will be limited to: (1) individuals who are unable to perform two or more activities of daily living (ADL) e.g. eating, bathing, dressing), or (2) individuals who have an equivalent cognitive disability that requires supervision or hands-on assistance to perform those activities (e.g. traumatic brain injury, Alzheimer's disease, multiple sclerosis, mental retardation)

BENEFITS: TO ACCOUNT FOR DIFFERENCES IN INDEPENDENCE SUPPORT NEEDS, THERE WILL BE TWO CASH BENEFIT TIERS.

TIER 1 BENEFITS (\$50/DAY) WILL BE PAYABLE TO ELIGIBLE INDIVIDUALS WHO ARE UNABLE TO PERFORM 2 OR MORE ADLS OR HAVE THE EQUIVALENT COGNITIVE IMPAIRMENT.

TIER 2 BENEFITS (\$100/DAY) WILL BE PAYABLE TO INDIVIDUALS WHO ARE UNABLE TO PERFORM 4 OR MORE ADL'S OR HAVE THE EQUIVALENT COGNITIVE IMPAIRMENT.

The monthly case benefit will be posted monthly to a debit account or a "Choice Account". Individuals who do not use the full monthly amount may roll it over from month to month, but not year to year.

However, once an individual becomes ineligible for CLASS benefits (by improvement in functional status or death), CLASS Act benefits will cease. Any residual balance of available services remaining on the individual's account will not be payable. If an eligible individual does choose to move into an institutional facility, CLASS Act benefits will be used to defray those associated expenses.

Relationship of CLASS Act Insurance Program to Social Security Disability Insurance

Eligibility for CLASS Act benefits will be independent of whether or not an individual is eligible for SSDI, so participation in the CLASS Act insurance program will not impair an individual's ability to remain qualified for SSDI.

Relationship of CLASS Act Insurance Program to Social Security Retirement Benefits

Similarly, eligibility for CLASS Act benefits will be independent of retirement benefits eligibility.

Relationship to Medicaid

If an individual is eligible for CLASS Act benefits, and are also eligible for the long term care benefit under Medicaid, CLASS Act benefits can be used to offset the costs to Medicaid, thus producing Medicaid savings for the state.

Relationship to Private Long Term Care Insurance

The "Class" program benefit does not replace the need for basic health insurance --- it provides a mechanism to pay for those non-medical expenses that allow a disabled person to remain independent. The "Class" program benefit can be an addition to long term care insurance. It provides a consistent, basic cash benefit to go along with the insurance products that provide more intense medical services over a shorter period of time.

A copy of the letter appears below.

March 25, 2009

President Barack Obama
The White House
1600 Pennsylvania Avenue, NW

Washington, DC 20500

Dear President Obama:

The undersigned 96 national organizations are writing to urge you to address issues concerning the financing and delivery of long-term services and supports in the health care reform proposals under development.

An estimated 10 million Americans currently need long-term services – personal care, assistive technology and other supportive services – and this number is projected to increase to 26 million by 2050. However, the nation lacks a coordinated, national public-private system for adequately and efficiently delivering high quality long-term services and supports. Nearly half of all funding for these services is now provided through Medicaid, which is a growing burden on states and requires individuals to become and remain poor to receive the help they need. There is also an institutional bias in Medicaid which directs approximately two-thirds of all spending to nursing homes and other institutions instead of preferred community-based services and supports.

An essential element of health care reform is ensuring that vulnerable populations have access to coverage that meets their care needs. For persons with disabilities and chronically ill older Americans – arguably the most vulnerable populations in the nation – long-term services and supports are their primary unmet care need, and are critical to promoting health and preventing illness. Real health care reform must not leave out the largest coverage gap in our current system. The unmet care needs of the most vulnerable and disadvantaged cannot be ignored. While approximately 45 million Americans do not have medical insurance, over 200 million adult Americans lack any insurance protection against the cost of long-term services and supports.

Another essential element of health care reform is ensuring real health security. Individuals and families should not go bankrupt paying for needed care. Health care reform must focus on areas in which Americans are now forced to pay the highest, catastrophic out-of-pocket costs. Under our current long-term services and supports system, families must impoverish themselves by spending down their life savings before receiving the care they need under Medicaid. To a family struggling to make ends meet, there is no difference between spending \$20,000 on hospital care and spending \$20,000 on home care or nursing home care. It is still \$20,000 they do not have. Individuals and families should not be forced to impoverish themselves to cover the costs of services they or their family members need in the event of disability or advancing age. Every family faces these potential costs, and we need to reform the system to support families and keep those in need at home and in their communities.

A third essential element of health care reform is strengthening and sustaining the Medicaid safety net for Americans with limited means. Medicaid is the primary payer for long-term services and supports but states are having an increasingly difficult time affording it. Almost 10% of state budgets are now spent on Medicaid long-term services and supports. Since the fastest growing segment of our population is people over age 85 – those at highest risk of needing care – state budget challenges will grow much worse without necessary reforms. National financing reform of long-term services and supports can achieve significant Medicaid savings. Unless health care reform improves access to cost effective home and community-based services for all those in need, there is a great risk that spending on long-term services and supports will squeeze out other state spending priorities, such as education and health coverage for children. We also urge that Medicaid be improved to ensure that people always have the option to choose home and community-based services.

Health care reform should also improve economic growth and productivity. Improving access to home and community services will enable many persons with disabilities to continue working. Such reforms will also support family caregivers, thereby reducing absenteeism and improving business productivity.

There is broad consensus among advocates representing older Americans and persons with disabilities about how to reform our long-term services and supports financing system. It can be accomplished in a financially sound way for families and taxpayers, with significant Medicaid savings. Such a consensus proposal can and should be crafted to complement and provide additional support for the entire health care reform package.

We must recognize that although states, communities, families, and individuals have important roles to play, financing for long-term services and supports is a national problem that requires a national solution. We must create a public program that allows all people, including individuals with disabilities and those near retirement, the opportunity to contribute to and prepare for the costs of long-term services and supports. The program should provide a strong foundation of protection while providing opportunities for personal planning that include a role for private sector options. It should provide for broad pooling of risk and appropriate low-income subsidies to make premiums

affordable enough so that all people, regardless of income and health status, can participate. The program should not force people to impoverish themselves to qualify. It should provide actuarially sound funding, such as through voluntary premiums that build reserves over time sufficient to pay for future needs in a way that is affordable to individuals and to society as a whole. The program should also support family caregivers, ensure adequate wages and benefits to improve recruitment and retention of needed direct care workers, and assure beneficiaries access to information about providers and the quality of their services. Finally, it should promote independence and dignity across the broad continuum of services and supports by ensuring beneficiaries the right to control and choose what services they receive, how and where they are delivered and who provides them.

We urge you to support legislation that is consistent with these principles and include it in the health care reform package.

Americans favor including long-term services and supports in health care reform. According to a survey of 800 likely voters by the Mellman Group and Public Opinion Strategies in August 2008, 78% stated that long-term care should be included in the health care reform proposals being debated (87% of Democrats). According to a survey of 1,000 voters by the Glover Park Group in September 2007, 94% stated that reforming the long-term care system is important (99% of Democrats), including three quarters (74%) who feel it is very important.

Thank you for your leadership on health care reform and for your consideration of these issues. We welcome the opportunity to meet with you and your staff to discuss them further. We look forward to working with you to craft a comprehensive, bipartisan proposal that addresses the care needs of vulnerable populations, ensures health security, strengthens the health care safety net, and improves economic growth and productivity.

ACCSES (formerly the American Congress of Community Supports and Employment Services)

ADAPT

Alliance for Retired Americans

Alzheimer's Association

Alzheimer's Foundation of America

American Association on Health and Disability

American Association on Intellectual and Developmental Disabilities

American Association of Homes and Services for the Aging

American Association of People with Disabilities

American Congress of Rehabilitation Medicine

American Group Psychotherapy Association

American Medical Rehabilitation Providers Association

American Network of Community Options and Resources

American Occupational Therapy Association

American Society of Consultant Pharmacists

American Therapeutic Recreation Association

Anxiety Disorders Association of America

Assisted Living Federation of America

Association of Academic Physiatrists

Association of BellTel Retirees

Association of Programs for Rural Independent Living

Association of Jewish Aging Services

Association of University Centers on Disabilities

Association for Ambulatory Behavioral Healthcare

Autistic Self Advocacy Network

Autism Society of America

Bazelon Center for Mental Health Law

Brain Injury Association of America

B'nai B'rith International

Catholic Health Association of the United States

Center for Self-Determination

Center for Medicare Advocacy

Clinical Social Work Association

Consortium for Citizens with Disabilities

Easter Seals

Epilepsy Foundation

Evangelical Lutheran Good Samaritan Society

Gray Panthers

Higher Education Consortium for Special Education

Lutheran Services in America

Medicare Rights Center

Mental Health America

National Academy of Elder Law Attorneys

National Adult Day Services Association
National Asian Pacific Council on Aging
National Association of Area Agencies on Aging
National Association of Professional Geriatric Care Managers
National Association of Social Workers
National Association of the Deaf
National Alliance for Caregiving
National Alliance on Mental Illness
National Association for the Advancement of Orthotics and Prosthetics
National Association of Councils on Developmental Disabilities
National Association of Nutrition and Aging Services Programs
National Association of State Head Injury Administrators
National Baptist Convention USA, Inc. Housing Board
National Coalition of Mental Health Consumer/Survivor Organizations
National Committee to Preserve Social Security and Medicare
National Council for Community Behavioral Healthcare
National Council on Aging
National Council on Independent Living
National Council of Jewish Women
National Disability Rights Network
National Down Syndrome Congress
National Down Syndrome Society
National Family Caregivers Association
National Health Council
National Indian Council on Aging
National Center for Learning Disabilities
National Low Income Housing Coalition
National Multiple Sclerosis Society
National Organization for Rare Disorders
National Rehabilitation Association
National Respite Coalition
National Senior Citizens Law Center
National Senior Corps Association
NISH
NCCNHR, the National Consumer Voice for Quality Long-Term Care
OWL - The Voice of Midlife and Older Women
Paralyzed Veterans of America
Research Institute for Independent Living
Self Advocates Becoming Empowered
Service Employees International Union (SEIU)
Sibling Leadership Network
Special Olympics
Substance Abuse Resources and Disability Issues
TASH
Teacher Education Division of the Council for Exceptional Children
The Arc of the United States
United Cerebral Palsy
United Church of Christ, Justice and Witness Ministries
United Jewish Communities
United Spinal Association
US Psychiatric Rehabilitation Association
Volunteers of America
Wider Opportunities for Women

Cc: Edward Kennedy, Chair, Senate Health, Education, Labor, and Pension Committee
Michael Enzi, Ranking Member, Senate Health, Education, Labor, and Pension Committee

Max Baucus, Chair, Senate Finance Committee
Charles Grassley, Ranking Member, Senate Finance Committee

Henry Waxman, Chair, House Energy and Commerce Committee
Joe Barton, Ranking Member, House Energy and Commerce Committee

Charles Rangel, Chair, House Ways and Means Committee
Dave Camp, Ranking Member, House Ways and Means Committee

George Miller, Chair, House Education and Labor Committee
Howard McKeon, Ranking Member, House Education and Labor Committee

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Press Contact

Melissa Wagoner (202) 224-2633