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The CLASS Act

Government's approach to long-term care falls short

By Deb Newman

The CLASS Act, which is part of President Obama's health care reform bill, is drawing plenty of controversy. Its intentions are good—to get employers and employees to pay more attention to the biggest hole in retirement planning—the lack of long-term care insurance (LTCI) coverage for our growing older population. However, it will take years to implement and there are other options that employers and employees may want to explore right now.

Government sources estimate that 70 percent of Americans over age 65 will need long-term care. A partial federal government remedy to this growing demand, the Patient Protection and Affordable Care Act, was signed into law on March 23 of this year. The act includes a provision entitled "Community Living Assistance Services and Supports," commonly referred to as the CLASS Act, which is meant to encourage employers and consumers to begin planning for long-term care.

About 680,000 Minnesotans are 65 and older now, according to a recent Minneapolis Star Tribune article. That number will increase to 950,000 by 2020, then to 1.3 million by 2030, when baby boomers start turning 85.

Today, a year of nursing home care costs more than $70,000; home health aides cost about $25/hour. Most families cannot accommodate these sorts of costs without long-term care insurance protection. They can eat up a family's retirement savings in a few short years.

Many Minnesotans continue to believe that Medical Assistance will provide for them if they run out of money or transfer their assets to their heirs. However, there is now a five-year look-back period that dictates when someone can go on Medical Assistance.

The CLASS Act controversy centers on whether the provision does enough—or too much. Many feel the long-term care benefits afforded by the act are so meager that they won't make a real difference in most people's actual long-term care needs. Others are concerned about the additional obligations placed on employers.

Long-term care coverage should be part of retirement planning

For some of us in the field, framing long-term care as part of health care reform is problematic. Personally, I don't see long-term care costs as part of an organization's or an individual's health care benefits. I think it should be part of their retirement plan, because if long-term care is needed (and we know one or the other of the two spouses in most families will need it at some point in their lives), it can deplete all or most of the assets put aside for retirement very quickly.

Given the trending away from companies and nonprofits providing pensions and defined-benefits plans for their employees, there is a growing dependence on 401(k) plans. A decade ago, if nursing home care ate up someone's 401(k) savings, the spouse would have a pension to rely on. Now, if a family uses up its 401(k) funds on long-term care, all the surviving spouse has is Social Security income.

While the CLASS Act is a move in the right direction in terms of getting employers to pay attention to employees' long-term care needs, it will be many years until the act bears actual fruit in terms of benefits. By the beginning of next year, the U.S. Department of Health and Human Services is required to begin working on implementation details. The department has until Oct. 1, 2012, to design the CLASS benefit plan. All regulations must be outlined and procedures developed by this date. Then there will be 60–90 days for public review.

The U.S. Department of Health and Human Services working group has not been established yet. Trade groups such as the National Association of Health Underwriters and Society for Human Resource Management are working to influence how the act is implemented.

Between 2013 and 2014, employers who choose to participate in a benefits plan under the auspices of the CLASS Act will begin incorporating the coverage provisions into their employee benefits plans, which may or may not happen during the employer's next open enrollment period. The year 2018 is the soonest anyone could go on claim, even if they bought in on Day 1 of the offering, because the CLASS Act requires participants to pay in premiums for a minimum of five years before they are able to receive any benefits. The cash benefits may be as low as $50 per day when care may cost over $200 per day.

Employers currently have private options that allow them substantial tax benefits for themselves and for their employees. Long-term care benefits can be paid as a tax-deductible expense for all or certain groups of employees. In addition, employer-paid premiums generally don't generate additional taxable income to an employee, even though the employee is the owner of the long-term care insurance policy. Benefits from a tax-qualified long-term care policy paid to the employee may be likewise income-tax-free. This tax treatment also applies to benefits for an employee's spouse.

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State-sponsored program offers long-term care incentives

The Minnesota Long Term Care Partnership, a federal program run by participating states, allows individuals to use private insurance policies to protect some of their assets if they need to rely on Medicaid for continued long-term care. This special feature, called "asset disregard," lets individuals retain assets equal to the amount of benefits they receive under qualifying long-term care insurance policies. So if an individual's qualifying policy pays out $200,000 in long-term care benefits, that is the amount of assets they and their family can retain.

Today, only 10 percent of all adults in Minnesota households earning at least median income are covered by private long-term care policies. The Minnesota Long Term Care Partnership Program hopes to double that percentage during the next 10 years.

The CLASS Act will encourage employers to seriously explore the long-term care options available to their employees, whether it means participating in the CLASS Act or offering private long-term care insurance. It also will provide a safety net for workers who could not qualify for private LTCI based on health conditions.

We believe that as awareness grows around LTCI, and people learn more about the government options available, many will opt for private long-term care insurance. They will do so for a variety of reasons, including more robust benefit options, the ability to purchase without evidence of employment (retirees), and the ability to insure family members (not available through the CLASS option).

Government programs encourage the right behaviors. But they aren't intended to cover all of someone's long-term care needs. We must each take a look at our individual situations and plan accordingly. The bottom line: Anyone planning to retire in the next 10–20 years should not rely solely on the CLASS Act.

Debra Newman *is a pioneer in the long-term care insurance industry and is founder and president of Newman Long Term Care in Richfield. For more details about the CLASS Act, see www.classactinformation.com.*