

The CLASS Act



Is that the LTCi industry walking off into the sunset?

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*** I agree: tremendous
short-term
opportunities!**

*** But longer term: huge
risks!**

Thank Jesse

- For all he does

And

- Giving me an opportunity to speak on this topic today

The opinions I'll express today do not necessarily represent the opinions of any entity with which I may be affiliated. For example, they do not represent the opinions of Target Insurance Services nor of Jesse Slome or the AALTCi. Also not personal toward anyone working on CLASS. I know several people who work on CLASS and respect and admire them. But good people may do bad things. Hopefully I turn out to be wrong and am the person doing the wrong thing today

Recommended Actions to Protect the USA & LTCi Industry

- Work to repeal CLASS
- Sell! Sell! Sell! Sell more diligently than you ever have, **especially work-site voluntary.**

My comments today

- Why LTCi people have a STRONG interest in repealing CLASS.
- I might disturb you, but I hope to encourage you to take action!

For Public Arguments in Favor of Repealing CLASS

- Contact NAHU or me
- Listen to a 15-minute WebEx as follows:

When: Tuesday, April 12, 11 a.m. Eastern

Thursday, April 14, 4 p.m. Eastern

Contact cthau@targetins.com for links and phone #.

**We'll Compete On
Price**

We'll Compete On
Price

**Initial Price Might NOT
be as High as You
Think**

It is NOT a Level Playing Field

Government incurs:

- NO underwriting costs
- NO costs to issue policies.

It is NOT a Level Playing Field

Government incurs NO cost for:

- commissions or processing thereof
- appointing and doing background checks on brokers
- broker training or confirming licenses or certifications.
- repetitive processing because of appointment and certification issues.

It is NOT a Level Playing Field

Pricing:

- Government: if expected assumptions materialize, the price is inadequate.
- Private industry: if expected assumptions materialize, the price is excessive.

It is NOT a Level Playing Field

Government accounting for CLASS:

- No reserves reported.
- No required surplus.
- No surplus strain incurred.
- No lock-box.

It is NOT a Level Playing Field

The government:

- Provides no guarantees as to benefits.
- Can create and change laws. Thus, they can ignore problems, deferring “solutions”.

It is NOT a Level Playing Field

Government does not:

- pay premium taxes, income taxes or DAC tax, etc.
- contribute to state guaranty associations.

It is NOT a Level Playing Field

Government doesn't invest time:

- educating and counseling clients
- filling out applications, including suitability, replacement, etc.

Government can minimize marketing cost by forcing employers to deliver education.

It is NOT a Level Playing Field

Government has tremendous critical mass.

In addition, their pricing ignores:

- 15 HHS staff working full-time on CLASS
- \$93 million of tax-payer \$ for marketing.
- \$120 million total desired budget.

The law says they MAY include expenses in the premium but no more than 3% for any year.

It is NOT a Level Playing Field

The government is increasing participation artificially through negative enrollment.

How do you think government would react if private LTCi used negative enrollment in Group LTCi programs?

It is NOT a Level Playing Field

Government invests NO time on non-buyers.

It is NOT a Level Playing Field

Government doesn't file:

- contracts, marketing materials or rate increases with states
- do annual filings on replacements, rescissions, etc.

Any such costs wouldn't have to be reflected in the premium anyway.

It is **NOT** a Level Playing Field

Government programs sometimes use consumer messaging that would be **FORBIDDEN** for private enterprise.

It is NOT a Level Playing Field

Government doesn't have to monitor & deal with law & prospective changes at the federal level, in all 51 jurisdictions & sometimes at lower levels.

Indeed, it has the unique ability to make business hard for its private industry competitors by creating legal and regulatory obstacles and increasing taxes.

It is NOT a Level Playing Field

Government:

- cannot be sued, which saves money and avoids E&O costs.
- is not subject to state audits, fines or "independent review" of claims.

It is NOT a Level Playing Field

Government may be able to impose unfunded liabilities on the states, such as:

- care coordination
- claims review

It is NOT a Level Playing Field

If you think of other advantages that the government has, please email your comments to: cthau@targetins.com

The Price Might NOT be as High as You Think

The pricing has been done on \$75/day average benefit.

So if the average benefit is \$50/day as so many people say, the initial premiums would drop 33%.

The Price Might NOT be as High as You Think

The government is planning violate CLASS by making premiums increase with inflation.

That could lower initial premiums another 20%-30%.

What impact would that have on your ability to compete?

The Price Might NOT be as High as You Think

Some protections against anti-selection exist.

Additional protections will reduce and postpone CLASS problems, making it easier for people to espouse lower premiums and to believe that problems don't exist.

We'll Compete On Price

**How Will the Government
React if We Compete
Successfully on Price?**

Government Reaction if We Compete Successfully on Price

- Many legislators, regulators, non-profits and academics are idealists who lack business experience
- “White hat” vs. “black hat” perception
- They KNOW they’re doing good, so many don’t challenge their motivations/actions. Result: “the end justifies the means”.
- In my experience, the government does not “play fair”.

Government Reaction if We Compete Successfully on Price

- Most people want to blame their lack of success on the other party's advantages
- Government will be concerned that there isn't a "level playing field"

Government Reaction if We Compete Successfully on Price

- Their non-level-playing field perspective: insurers are “cherry-picking” the best risks
- So restrict private LTCi programs
 - No more preferred health discounts (or no more underwriting at all)
 - No more couples’ discounts
- Employers may lose right to discriminate (could happen independently of CLASS)

Government Reaction if We Compete Successfully on Price

They'll also revise CLASS to strengthen its competitive position. More about that later.

We'll Compete On Price

**How Will the Government
React When There is a
Low Participation Rate?**

Reaction to Low Participation

- Our success might contribute to low participation in CLASS.
- But low participation rate will lead to changes whether we are effective or not.

Reaction to Low Participation

- Estimates range from 2% to 10%
- Connie Garner: 10% (clearly optimistic)
- CMS Actuary: 2%
- Greenwald poll: 3% would pay \$160/mo.

Reaction to Low Participation

Will the following people be satisfied with low participation?

- Disability interest groups
- Consumerists
- AARP
- Regulators
- Legislators who supported CLASS

Reaction to Low Participation

What will disability and consumer groups say to Representatives and Senators if there is low participation?

Reaction to Low Participation

- To get more people insured, gov't will want to lower employee cost.
- How will they do that?

Reaction to Low Participation

CLASS is a Social Insurance Program with premiums collected through the work-site, right?

Reaction to Low Participation

- What about Social Security (SS)? Isn't it a Social Insurance Program with premiums collected through the work-site?
- Which employees are covered by SS?
- Who contributes to the cost of SS?

Reaction to Low Participation

- What about Medicare? Isn't it a Social Insurance Program with premiums collected through the work-site?
- Which employees are covered by Medicare?
- Who contributes to the cost of Medicare?

Duh!

Reaction to Low Participation

How is LTC funded in Germany?

Reaction to Low Participation

They'll push for:

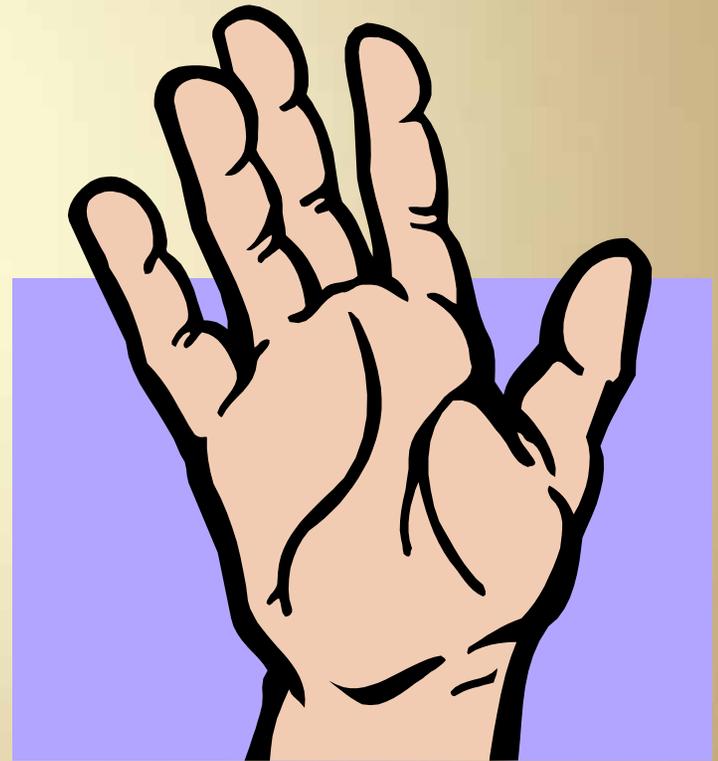
- 50% paid by employer
- and
- Mandatory participation

Reaction to Low Participation

Many CLASS advocates envision a low penetration rate as their opportunity to push for a mandatory program, half-funded-by-employers.

What Do You Think?

Raise your
hand if you
think I am
crazy.



**We'll Compete
Because the CLASS
Benefit is Only
\$50/Day**

The Benefit is Only \$50/Day

- The law requires an average benefit of either \$50/day or \$75/day
- Pricing has been done on \$75/day

The Benefit is Only \$50/Day

- The law requires at least two and as many as six levels of benefits.
- Let's assume there are two benefits:
- \$50/day and
- \$100/day
- What benefit level will people "hear"?
- Materials may say "up to \$100"

The Benefit is Only \$50/Day

- People don't expect to need LTC for a long time
- What will the benefit level be by the time they need care?

The Benefit is Only \$50/Day

- Although many people don't trust the government, they ALSO don't trust insurers.
- Likely attitude: "I'll take CLASS's \$100/day and self-insure the rest."
- Maybe: "I'll hedge. I'll buy CLASS's \$100/day and \$50-\$100/day of private LTCi." Our average prem/sale might drop.

**We'll Compete
Because CLASS has
NO Benefit for 1st 5
Years**

There is NO Benefit for the first 5 Years

- How many people think they'll need care in the next 5 years?
- If people are concerned about the next 5 years, they probably are not insurable

There is NO Benefit for the first 5 Years

Compare that to the government saying:

- Benefits for the rest of your life if needed
- Guaranteed to increase with inflation
- First-day coverage
- Pay family members to provide care

Employers will likely to forced to distribute the literature. Government messaging is not subject to state restrictions.

**CLASS Will
NEVER Become
Active**

It Will **NEVER** Become Active

- That's taking a **BIG** risk.
- We need to work for that result!
- For years, people insisted that CLASS would **NEVER** pass.

**CLASS will Crash
after having been
Enacted**

It Will CRASH after having been Enacted

- That's taking an even **BIGGER** risk.

MONUMENTAL, I'd
say.

It Will CRASH after having been Enacted

- What other Social Insurance programs have been disbanded?
- Seems politically naïve.

It Will CRASH after having been Enacted

- CLASS: negligible claims in 1st 10 years
- Positive cash flow for at least 15 years.
- 20+ years from now, you expect politicians to pull the plug?????

It Will CRASH after having been Enacted

Most of us believe if we can't meet all our promises, we should protect the poor.

Potential changes to CLASS:

1. Means-testing: taxing benefits would hit few people when enacted & mainly affluent.
2. Make CLASS secondary to private LTCi
 - Doesn't hurt the poor (they don't have private LTCi)
 - Saves government \$

It Will CRASH after having been Enacted

CLASS could become an assigned risk pool
(only uninsurable people buy)

- Nice scenario for the industry
- Dangerous to count on it – if we want this to happen, we have to prove that private LTCi can cover employees. Sell, sell, sell in the voluntary market.

**We'll Sell
Supplementary LTCi
like we sell Med
Supp**

Not Like Med Supp

- Government pays ***first*** dollar on CLASS Act, but does NOT do so on Medicare
- People are much more concerned about acute needs than chronic needs

Problem: Duplicate Coverage?

- A LTCi executive opined that private LTCi won't pay services covered by CLASS based on: "This Policy will only pay covered charges in excess of charges covered under any of the following:
...any other governmental program (except Medicaid)."
- Do you think that stance will fly?

Problem: Duplicate Coverage

- I believe CLASS & current private LTCi would reimburse the same expenses
- Duplicate benefits would force premiums up

Product Change: Coordination of Benefits

- COB would avoid duplication
- But state governments don't currently allow COB between LTCi carriers on individual policies
- Conclusion: COB with CLASS does not seem likely to be permitted

Pricing Difficulties with Coordination of Benefits

- COB would mean people with CLASS get lower benefits than those without CLASS
- Can't know who will have CLASS coverage
 - Might buy it later
 - If have it now, could drop it
- So price conservatively for everybody, causing higher premiums
- Unfair: people with CLASS pay as much as those without CLASS but get lower benefits

Product Change: High On-Going Deductible

- Instead of elimination period
- Would avoid duplication (except relative to future legislated increases in CLASS benefits)
- State DOIs might not like high deductible for people without CLASS
- High deductible not suitable in general
- What should deductible be, as CLASS benefits vary by severity?

Product Change: Benefits Based on Severity

- To wrap-around CLASS, insurers may have to base benefits on severity.
- But people with less severe needs may incur the same LTC cost as people with more severe needs.
- CLASS design is like saying we have long slacks and short slacks. As men generally have longer legs than women, all men will get long slacks and all women will get short slacks.

Would Insurers Develop Such Products?

- The industry has huge losses in LTCi
- Few companies sell LTCi
- Few executives have leveraged LTCi to upper echelon jobs
- Do they have the stomach to:
 - shift to a new design with which they lack experience?
 - sell product with risk tied to CLASS, which is undependable?
 - invest when government might put them out of business?

Would Insurers Develop Such Products?

- Acute health insurance and Medicare Supp are annually-rated
 - Much less long-term risk because premiums and benefits can change annually
- LTCi has fixed benefits and limited ability to re-price
 - Substantially more insurer risk to all pricing factors, including, but not limited to, changes in CLASS

Can Brokers Afford to Sell Wrap-Around Coverage?

- “LTCi Supp” would be hard to sell:
 - Hard & time-consuming to explain differences between private LTCi and CLASS
 - Denial of need-greater-than-what-CLASS-covers
 - Expectation that politicians will improve benefits
 - Distrust of insurers, deductible/co-ordination of benefits
- Lower percentage of cases may close
- Wrap premiums would be lower than today's premiums, so comp would be lower

Can Brokers Afford to Sell Wrap-Around Coverage?

- Perhaps sold by Medicare specialists as ancillary product, IF allowed by CMS
- Perhaps included in combo products

LTC in France

- People promoting CLASS: "In France, sales of private "wrap around" policies have jumped 15 percent annually since lawmakers there created a long-term care program."
- French co-pays range from 0% to 90% of established benefit
- Must need help with at least 3 Activities of Daily Living

Why Repeal is Possible

Why Repeal is Possible

- Most Democrats voted for CLASS to offset HCR costs, enabling PPACA to pass.
- PPACA has passed, so CLASS is no longer necessary.

Why Repeal is Possible

- CBO was required to count LTCi premiums but *ignore* reserves for future claims.
- So, House version would generate \$101 billion in "budget savings" through 2019; Senate version would "save" \$72.5 billion.
- That's like saying you are richer if you take a loan because debt does not count.

Why Repeal is Possible

- CBO exposed the problem: "Therefore, the [LTCi] programs would add to budget deficits in the third decade—and in succeeding decades—by amounts on the order of tens of billions of dollars for each 10-year period."
- Douglas Holtz-Eakin & Alice Rivlin, former CBO directors have been outspoken.

Why Repeal is Possible

Few Democrats would repeal HCR, but they might support repeal of CLASS because:

- CLASS has already helped to pass PPACA.
- Of increasing concern about government deficits. The Bi-Partisan Debt Commission suggested repeal.

Democrats want to show concern about the debt while protecting existing entitlements.

Why Repeal is Possible

- Even when it was promoted as critical to the passage of PPACA, the Senate almost removed CLASS from PPACA.
- More than 55 senators voted for removal, but they needed 60 votes.
- Now it is easier to get additional votes.
- But we'd need 67 to override a veto.

**We should accept an
olive branch**

- Some of us have heard CLASS staff explain they are comfortable working with attorneys to find ways to subvert intent.
- Law clear: people earning as little, in a year, as SS quarterly minimum ARE to be permitted to buy this coverage.
- Our servants are comfortable because they know they are doing the right thing.
- Would those who are disenfranchised agree?

Now I may really offend some of you

- Although not as grave obviously, this logic is similar to logic justifying imposing educational requirements on voters to improve the quality of voting; to justify water-boarding; to justify the internment of Japanese people during WWII; and also to justify actions in Europe that resulted in me having few living relatives when I was born. In all of these circumstances, people acted based on what THEY thought was good. I'm sorry; no olive branch here.

What We Can Do to Encourage Repeal

Don't Rely On Others

- Insurers: too few; small, unprofitable business; fearful of offending power
- LTC providers favor CLASS
- Some LTCi-interested parties might see opportunities to profit (e.g., TPA)
- AARP, disability advocates and “big government” people oppose us
- People don't realize this is “camel's nose under the tent” for single-payer system

However there is support from many quarters

- Republicans and many Democrats
- US Chamber of Commerce
- Debt Commission
- The Heritage Foundation:

CLASS was bundled with the larger provisions of the health care law as a budgetary gimmick. There is bipartisan concern about its impact and real potential for broad bipartisan support to repeal it.

- Former CBO directors
- Fiscal conservatives
- Perhaps state governments

Effort to Repeal

- March 17, 2011: Congressmen Charles Boustany, Jr. (R-LA), Phil Gingrey (R-GA) & Dan Lipinski (D-IL) introduced bipartisan legislation to repeal CLASS.

What Can You Do?

- Contact your Congress people, media, friends, & business associates
- Support NAHU, which has position paper (email cthau@targetins.com) and The Center for LTC Reform

How Can We Protect the Industry if Repeal Fails?

- Jesse will explain how to sell in the face of CLASS.
- We must protect our representatives if we want them to protect us! Tell them about work-site LTCi sales so they can withstand pressure for mandatory CLASS, 50% employer-paid.

END

I appreciate those of you who place business through us, which enables me to spend time advocating for our industry.

Claude Thau

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