

Presentation #4.E.

COORDINATION AND INTERACTION: CURRENT FEDERAL PROPOSALS

Considerations for designing a statewide long-term care (LTC) insurance program in California

October 21, 2021

QUALIFICATIONS, ASSUMPTIONS AND LIMITING CONDITIONS

Oliver Wyman was commissioned by the California Department of Insurance (CDI) to provide support associated with assessing the feasibility of developing and implementing a culturally competent statewide insurance program for long-term care services and supports. The primary audience for this report includes stakeholders from the California Department of Insurance, members of the Long-Term Care Insurance Task Force, and members of the general public within the state of California.

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THE WISH ACT: CATASTROPHIC (BACK-END) LTC COVERAGE

Proposal introduced in July 2021 by Senator Thomas Suozzi



Who is covered by the program?

- Older adults that need assistance with at least 2 activities of daily living (ADLs) or suffer from severe cognitive impairment
 - Beneficiaries must reach full retirement age (per Social Security)



What are the eligibility requirements?

- Work and contribute for at least 40 quarters (consistent with Social Security) to receive full benefits
- Pro-rated benefits for those who work at least 6 quarters (but less than 40)



When are benefits payable?

- After satisfying a waiting period based on lifetime income
 - 1 year for those with income in lowest 40 percentiles
 - 1 additional month for every 1.25 percentiles of higher income
 - A person in 70th percentile will wait 3 years
 - Highest earners will wait 5 years



What benefits are covered by the program?

- Monthly cash stipend of about \$3,600¹ adjusted annually for inflation and wages
- No lifetime benefit limit



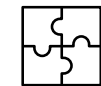
How is the program financed?

- Payroll tax of 0.6% on all (i.e., uncapped) wages
 - Split equally between employer and employee
 - Self-employed pay full tax



How will the program coordinate with existing government programs?

- Benefits would not be considered taxable income nor factor into Medicaid eligibility
- Coordination for individuals eligible for both programs is not yet defined
- Program expected to reduce Medicaid spending by 25%



What are the coverage gaps?

- Low to middle-income individuals without private LTC insurance may not be able to cover out-of-pocket costs incurred during waiting period (at least 1 year)
- Low to middle-income individuals may not be able to cover costs in excess of monthly stipend (approx. 6 hours of personal care)
- Unemployed individuals or those near-retirement that do not vest through at least 6 quarters of contributions
- Individuals that require long-term services and supports (LTSS) prior to full retirement age

¹ Based on the government's calculation of the median cost of 6 hours per day of personal assistance

BETTER JOBS BETTER CARE ACT: MEDICAID EXPANSION

Proposal introduced in June 2021 (previously part of President Biden's American Jobs Plan)



What are the provisions of the Act?

- Provides \$100M for states to develop plans to:
 - Expand access to quality Medicaid home and community-based services (HCBS)
 - Create jobs and raise wages and benefits for HCBS workforce
- States would be eligible for:
 - Permanent 10% increase in federal Medicaid match for HCBS
 - Enhanced federal match of 80% for administrative activities associated with improving HCBS programs
 - States must take certain actions/meet certain criteria
- States that establish certain models for self-directed care delivery could receive 1-year additional 2% increase in federal match for HCBS
- Other provisions include:
 - Providing funding to the Centers for Medicare & Medicaid Services to support quality and accountability
 - Providing funding for states to develop HCBS infrastructure improvement plans
 - Permanently authorizing protections against impoverishment for individuals whose spouses are receiving Medicaid HCBS
 - Making the Money Follows the Person program (which supports innovations in LTC delivery) permanent



How is the Act financed?

- From any funds in the Treasury “not otherwise appropriated”¹ (i.e., general revenues)



How will the Act coordinate with existing government programs?

- Similar considerations as currently exist for Medicaid, adjusted for:
 - Potential expansion of HCBS
 - Protections against impoverishment for certain individuals



What are the coverage gaps?

- The expansion does not benefit individuals who can't qualify for Medicaid without asset spend-down
- The proposal does not address how certain inequities of the current system will be handled, including:
 - Individuals living in rural areas
 - Individuals with dementia

¹ https://debbiedingell.house.gov/uploadedfiles/hcbs_01_xml.pdf

CREDIT FOR CARING ACT: TAX CREDIT FOR FAMILY CAREGIVERS

Proposal introduced to the House of Representatives in 2019 and to the Senate in May 2021



Who is covered by the Act?

- Working family caregivers who pay or incur expenses for providing care to a spouse or other dependent relative with LTC needs



What are the eligibility requirements?

- Caregiver must earn annual income in excess of \$7,500
- Individual receiving care must:
 - Need assistance with at least 2 of 6 ADLs or suffer from severe cognitive impairment
 - Be at least 6 years of age¹



When are benefits payable?

- Benefits paid annually



What benefits are covered by the Act?

- Tax credit up to 30% of out-of-pocket caregiving expenses that exceed \$2,000, up to a maximum annual credit of \$5,000
 - Indexed for a cost-of-living adjustment
- Tax credit phases out for higher income earners
 - For every \$1,000 of income above \$75,000 for a single earner (\$150,000 for joint filer), allowable credit decreases by \$100



How is the Act financed?

- The Act would amend the Internal Revenue Code
- No explicit financing mechanism is defined



How will the Act coordinate with existing government programs?

- Tax credit does not impact taxable income, so would not factor into Medicaid eligibility



What are the coverage gaps?

- Credit only applies for *working* family caregivers
- Credit does not account for any potential reduction in income due to an individual working less so they can provide informal care (i.e., only expenses are covered)
- Credit wears off for higher income earners
 - An individual earning above \$125,000 per year (assuming no cost-of-living adjustment) would not receive the credit
- According to the AARP, many families spend nearly \$7,000 each year in out-of-pocket caring costs

¹ Different requirements exist for those under 2 years of age

MEDICARE LTSS ACT: MEDICARE EXPANSION

Proposal introduced in May 2018 by Representative Frank Pallone



Who is covered by the Act?

- Certain Medicare-eligible individuals



What are the eligibility requirements?

- Individuals must be covered under Medicare Part A OR
- Meet functional disability criteria under Medicare Part E
- To receive benefits, individuals must require assistance with at least 2 of 6 ADLs or suffer from severe cognitive impairment



When are benefits payable?

- There is a 2-year waiting period or a one-time cash deductible¹



What benefits are covered by the Act?

- Cash benefit for LTSS equivalent to (at least) 5 hours of home care services per day
 - Scaled upward based on one's functional ability
 - Adjusted for certain geographic variation and inflation
- There will be at least 2 (but no more than 4) benefit level amounts, based on one's functional ability



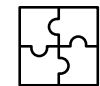
How is the Act financed?

- No official financing source has been announced
- A variety of taxes are being considered, including payroll taxes, general revenue taxes, estate taxes, and/or potentially reinstating other taxes rolled back by Tax Cuts & Jobs Act



How will the Act coordinate with existing government programs?

- Cash benefits meant to supplement, but not supplant, other health care benefits and are disregarded for eligibility determination under Medicaid or any other federal, state, or locally funded assistance program
- Cash benefit would apply towards Medicaid LTSS costs, with separate payment rules applying to Medicaid beneficiaries:
 - Receiving institutionalized care
 - Receiving Medicaid HCBS
 - Enrolled in Programs of All-Inclusive Care for the Elderly (PACE)



What are the coverage gaps?

- Low to middle-income individuals without private LTC insurance may not be able to cover out-of-pocket costs incurred during waiting period
- Low to middle-income individuals may not be able to cover costs in excess of cash benefit
- Individuals that are not eligible for Medicare are not covered

¹ The proposal anticipates that the cash deductible will be scaled based on an individual's income, but this has not yet been defined

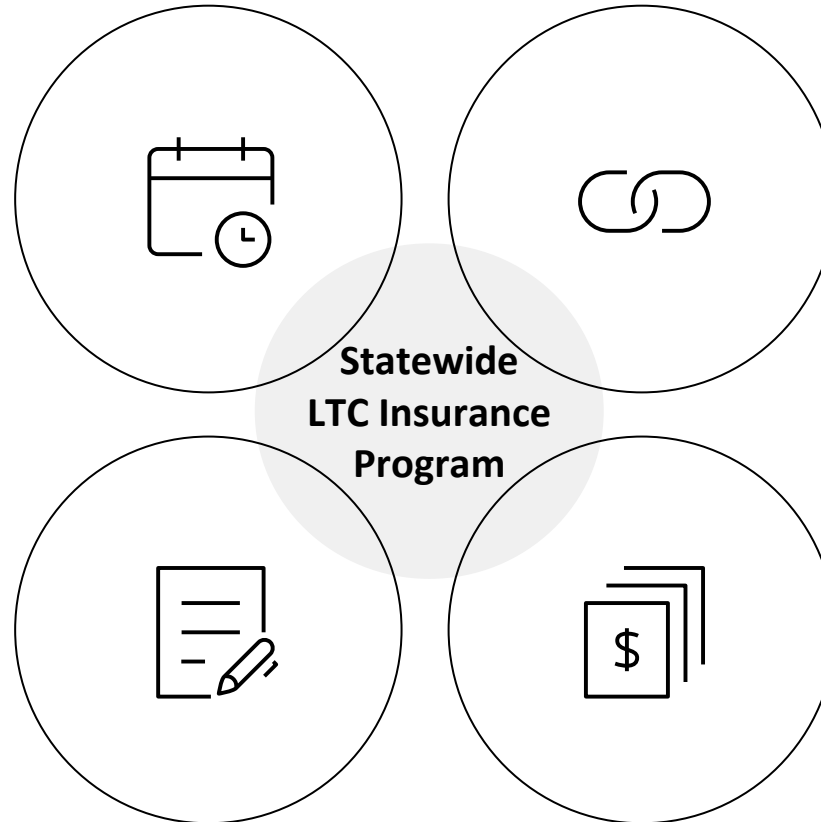
HOW COULD A STATEWIDE LTC INSURANCE PROGRAM COORDINATE WITH PROPOSED FEDERAL PROGRAMS?

The WISH Act

A state-level front-end design where the benefit duration varies by income level to align with the WISH Act waiting period would cover some gaps in the WISH Act and avoid duplication of coverage

Credit for Caring Act

State-level program could potentially coordinate by *not* covering the same expenditures that would qualify an individual for a tax credit under this Act; alternatively, state-level benefits could focus on *non-working* informal caregivers



Better Care Better Jobs Act

Coordination considerations similar to those for Medi-Cal would apply

Medicare LTSS Act

A state-level design front-end design with a benefit duration of 2 years would align with the waiting period under this Act

HOW WAS COORDINATION ENVISIONED UNDER THE CLASS ACT?

The CLASS Act passed as part of the Affordable Care Act but was subsequently repealed in 2013



Background

- The Community Living Assistance Services and Supports (CLASS) Act was a voluntary public LTC insurance option for employees
 - Paid for via premiums from those who signed up
- Not designed to replace basic health insurance or LTC coverage through Medicaid or private LTC insurance
 - Intended to supplement existing coverage(s) by providing mechanism to pay for non-medical expenses



Eligibility for other federal programs

- Individuals who participated in the CLASS program would also remain eligible for Medicaid
- Benefits received from the CLASS program could not be used to determine (or redetermine) Medicaid or Medicare eligibility



Benefits coordination with Medicaid

- The CLASS program would have been primary payer for dually eligible individuals' LTC costs (i.e., offset costs for Medicaid)
 - Medicaid would have provided secondary coverage for remainder of a beneficiary's costs
- Dual eligible individuals would have been allowed to keep some of their CLASS benefits
 - 50% of daily or weekly cash benefit if receiving PACE or HCBS
 - 5% if receiving institutionalized care (added to personal needs allowance)
 - Remainder would have covered state's costs for PACE/HCBS (under certain circumstances) or facility's costs



Potential savings to Medicaid

- The Congressional Budget Office (CBO) estimated that the CLASS Act would have reduced federal spending on Medicaid by nearly \$2 billion in the first 10 years after it was put into effect, driven by more people receiving benefits in home or community-based settings (vs. institutional settings)



Potential impact on private LTC insurance offerings

- Private LTC insurers may have created products with similar benefits that directly competed with the CLASS program
- Private insurers may have created products to "wrap around" CLASS benefits (i.e., provide additional benefits)
 - Similar to how Medigap health insurance plans relate to Medicare

