

EXHIBIT A

Blackwood, Kristine (HHS/ASL)

From: Gotts, Jill M. (CMS/OL)
Sent: Tuesday, May 26, 2009 1:38 PM
To: Fry, Timothy J. (CMS/OL)
Subject: FW: Request for TA on the CLASS Act sections dealing with a new trust fund

From: Foster, Richard S. (CMS/OACT)
Sent: Tuesday, May 19, 2009 5:40 PM
To: Snow, Jennifer M. (CMS/OL)
Cc: Klemm, John D. (CMS/OACT); Hall, Amy (CMS/OL); Boulanger, Jennifer L. (CMS); Gotts, Jill M. (CMS/OL); Guevara, Natalia T. (CMS/OL)
Subject: RE: Request for TA on the CLASS Act sections dealing with a new trust fund

Jennifer,

I've skimmed through the draft legislative proposal. To review and consider this proposal properly would take a significant amount of time, and we're not in a position to do so by COB Wednesday. In view of our other obligations, I don't think we could complete such a review any sooner than about 2 weeks from now.

Having said that, let me offer a few preliminary comments:

- The sections establishing a trust fund, Board of Trustees, etc. for the new program appear to be straightforward and to mirror the OASDI and Medicare trust fund provisions fairly closely.
- I didn't see any provision for a Federal subsidy of this program; in other words, the intention appears to be that it would be financed solely through participant premiums and interest earnings. Nonsubsidized, voluntary insurance programs generally involve substantial "antiselection" by those who choose to participate. As summarized below, this could be a terminal problem for this proposal.
- The program is intended to be "actuarially sound," but at first glance this goal may be impossible. Due to the limited scope of the insurance coverage, the voluntary CLASS plan would probably not attract many participants other than individuals who already meet the criteria to qualify as beneficiaries. While the 5-year "vesting period" would allow the fund to accumulate a modest level of assets, all such assets could be used just to meet benefit payments due in the first few months of the 6th year.
- The resulting substantial premium increases required to prevent fund exhaustion would likely reduce the number of participants, and a classic "assessment spiral" or "insurance death spiral" would ensue.
- Alternatively, suppose that a significant number of people without any limitations in ADLs could be persuaded to participate in the program. How many people would be needed to cover the benefit costs for those qualifying as beneficiaries? For the sake of illustration, suppose 10 million people qualify for benefits of \$50 per day (annual cost of \$182.5 billion). About 234 million people, paying premiums of \$65 per month, would be needed to cover this cost (ignoring administrative expenses). The size of the U.S. population aged 20 and over is about 225 million, and about 165 million of these are employed. This rough—but probably not unrealistic—example further calls into question the feasibility of the maximum financing versus the minimum benefits.

In my quick read, it's possible that I've overlooked something important and that these preliminary thoughts are ill-founded. However, at first glance this proposal doesn't look workable. I'm entirely comfortable having SSA review the

draft legislation in detail, and I suspect that they would reach similar conclusions. If you want us to look at the proposal more carefully, please let us know and we can add it to the list.

Rick

From: Snow, Jennifer M. (CMS/OL)

Sent: Tuesday, May 19, 2009 10:51 AM

To: Foster, Richard S. (CMS/OACT)

Cc: Klemm, John D. (CMS/OACT); Hall, Amy (CMS/OL); Boulanger, Jennifer L. (CMS); Gotts, Jill M. (CMS/OL); Guevara, Natalia T. (CMS/OL)

Subject: Request for TA on the CLASS Act sections dealing with a new trust fund

Rick,

I am writing to ask for you and your staff's input on legislation from Sen. Kennedy's office that would establish a new Federal entitlement to a cash benefit for individuals who have a qualifying disability for use in purchasing nonmedical services and supports (including home modifications, assistive technologies, accessible transportation, home-maker services, respite care, personal assistance services, home care aides, and nursing support) that s/he needs to maintain his/her independence at home or in the community. We will be advising the Committee that SSA is well positioned to provide comment, since they administer two federal cash benefit programs, SSI and SSDI. With that said, to the extent that you have comments on the provisions relating to the creation of a trust fund (see sec. 3206, which begins on page 145, or page 38 of 58 in the attached pdf) or other matters, they would be most appreciated. Would you be able to provide comment by the end of the day, Wednesday, May 27th?

Thank you

Jennifer Snow

Low Income Programs Analysis Group

CMS Office of Legislation
[REDACTED]