

EXHIBIT B

Blackwood, Kristine (HHS/ASL)

From: Gotts, Jill M. (CMS/OL)
Sent: Monday, August 24, 2009 5:19 PM
To: Hall, Amy (CMS/OL)
Cc: Snow, Jennifer M. (CMS/OL)
Subject: FW: Update on CLASS Act

Here are Rick's concerns, which he says in a subsequent email (enclosed), are substantiated by the American Academy of Actuaries' and Society of Actuaries' analysis of the bill.



RE: Update on
CLASS Act

From: Foster, Richard S. (CMS/OACT)
Sent: Thursday, July 09, 2009 5:29 PM
To: Gotts, Jill M. (CMS/OL)
Cc: Hall, Amy (CMS/OL); Blum, Jonathan D. (CMS/OA)
Subject: RE: Update on CLASS Act

Jill,

I've finished reviewing the two studies provided by Sen. Kennedy's staff regarding the CLASS proposal. I'm sorry to report that I remain very doubtful that this proposal is sustainable at the specified premium and benefit amounts.

The actuarial study conducted for AARP assumed participation rates based on a portion (40% to 100%) of current rates for 401(k) plans. In practice, I think current experience for participation in employer-based long-term care plans would be much more applicable, and such participation is far lower than for 401(k)'s (for fairly obvious reasons). The AARP study emphasized the sensitivity of premium levels to the number of healthy participants. Although the actuaries didn't model a plan with participation in the few-percent range, I strongly suspect that the resulting premiums would be so large as to further diminish the number of participants and to fail to achieve the critical mass of participants in average health needed to cover the selection and subsidy costs.

All of the analysis in the Moran study is based on an assumption that the CLASS program would be mandatory. The results look legitimate for such a program, but they are not applicable to the voluntary plan proposed for CLASS.

I haven't been able to talk to CBO yet regarding their participation assumptions. Unless they have a compelling reason to expect greater-than-LTC levels of participation, however, I can't see how there would be enough workers participating to cover the selection costs for those with existing ADL limitations plus the costs for the internal subsidies for students and low-income persons. Thirty-six years of actuarial experience lead me to believe that this program would collapse in short order and require significant Federal subsidies to continue.

I'll let you know if my conversation with CBO changes this view, but I wanted to give you an update in the meantime. As I indicated previously, OACT could undertake a full modeling effort for the CLASS proposal, but such an effort would require more time than we have available just now.

Rick

From: Gotts, Jill M. (CMS/OL)
Sent: Wednesday, July 08, 2009 12:15 PM
To: Hill, Susan N. (CMS/CMSO); Foster, Richard S. (CMS/OACT); George, Effie (CMSO/Intergovtl Personnel Act); Sowers, Mary P. (CMS/CMSO); Bosstick, Suzanne R. (CMS/CMSO); Smith, Carrie A. (CMS/CMSO); Peltz, Linda L. (CMS/CMSO)
Cc: Harris, Monica F. (CMS/CMSO); Hall, Candice J. (CMS/CMSO); Snow, Jennifer M. (CMS/OL); Harris, Kimberly A. (CMS/OACT); Pratt, Theresa A. (CMS/CMSO); Hall, Amy (CMS/OL); Boulanger, Jennifer L. (CMS); Guevara, Natalia T. (CMS/OL); Johnson, Donald N. (CMS/OL)
Subject: RE: Update on CLASS Act

Per the attached, the Administration is now officially on record supporting the CLASS Act.
<< File: 7-6HELPCommitteeLetter.pdf >>

From: Gotts, Jill M. (CMS/OL)
Sent: Tuesday, July 07, 2009 9:23 AM
To: Hill, Susan N. (CMS/CMSO); Foster, Richard S. (CMS/OACT); George, Effie (CMSO/Intergovtl Personnel Act); Sowers, Mary P. (CMS/CMSO); Bosstick, Suzanne R. (CMS/CMSO); Smith, Carrie A. (CMS/CMSO); Peltz, Linda L. (CMS/CMSO)
Cc: Harris, Monica F. (CMS/CMSO); Hall, Candice J. (CMS/CMSO); Snow, Jennifer M. (CMS/OL); Harris, Kimberly A. (CMS/OACT); Pratt, Theresa A. (CMS/CMSO); Hall, Amy (CMS/OL); Boulanger, Jennifer L. (CMS); Guevara, Natalia T. (CMS/OL); Johnson, Donald N. (CMS/OL)
Subject: RE: Update on CLASS Act

FYI. Additional information about how CBO scored CLASS Act is available here:
<http://www.cbo.gov/ftpdocs/104xx/doc10436/07-06-CLASSAct.pdf>

From: Gotts, Jill M. (CMS/OL)
Sent: Thursday, July 02, 2009 12:56 PM
To: Hill, Susan N. (CMS/CMSO); Foster, Richard S. (CMS/OACT); George, Effie (CMSO/Intergovtl Personnel Act); Sowers, Mary P. (CMS/CMSO); Bosstick, Suzanne R. (CMS/CMSO); Smith, Carrie A. (CMS/CMSO); Peltz, Linda L. (CMS/CMSO)
Cc: Harris, Monica F. (CMS/CMSO); Hall, Candice J. (CMS/CMSO); Snow, Jennifer M. (CMS/OL); Harris, Kimberly A. (CMS/OACT); Pratt, Theresa A. (CMS/CMSO); Hall, Amy (CMS/OL); Boulanger, Jennifer L. (CMS); Guevara, Natalia T. (CMS/OL); Johnson, Donald N. (CMS/OL)
Subject: RE: Update on CLASS Act

Here is the CBO score (and footnote g).

<< File: Score.pdf >>

From: Gotts, Jill M. (CMS/OL)
Sent: Monday, June 29, 2009 9:52 AM
To: Hill, Susan N. (CMS/CMSO); Foster, Richard S. (CMS/OACT); George, Effie (CMSO/Intergovtl Personnel Act); Sowers, Mary P. (CMS/CMSO); Bosstick, Suzanne R. (CMS/CMSO); Smith, Carrie A. (CMS/CMSO); Peltz, Linda L. (CMS/CMSO)
Cc: Harris, Monica F. (CMS/CMSO); Hall, Candice J. (CMS/CMSO); Snow, Jennifer M. (CMS/OL); Harris, Kimberly A. (CMS/OACT); Pratt, Theresa A. (CMS/CMSO); Hall, Amy (CMS/OL); Boulanger, Jennifer L. (CMS); Guevara,

Natalia T. (CMS/OL); Johnson, Donald N. (CMS/OL)

Subject: RE: Update on CLASS Act

FYI. The following story was published today in BNA. Bottom line, the CLASS Act was scored by CBO with a savings of \$58 billion over 10 years, including a \$2.5 billion savings in Medicaid.

Reform Proposals

**Long-Term Care Program Would Save
\$58 Billion, Include Medicaid Spending Cuts**

A new voluntary long-term care insurance program included in a Senate draft health reform bill would save nearly \$58 billion over 10 years, including a \$2.5 billion reduction in Medicaid spending, according to a cost analysis released June 26.

The Congressional Budget Office and Joint Committee on Taxation estimate that under the Community Living Assistance Services and Supports (CLASS) program, the federal government would collect \$81.5 billion in premiums and pay \$22.6 billion in benefits during the program's first 10 years.

In addition, a senior Democratic advisor to the Health, Education, Labor and Pensions Committee June 26 told reporters the program's long-term health is protected by a provision that would allow the Health and Human Services Department Secretary to cut off new enrollment if the program is headed toward insolvency.

The HHS secretary also would be able to increase premiums and make other changes to maintain the program's solvency, according to a summary of the CLASS Act prepared by the Democratic staff of the HELP Committee.

Monthly Premiums

Under the CLASS program, participants would have to contribute monthly premiums for five years before they qualify for benefits, which are triggered by evidence of functional limitation, including cognitive impairment.

Premiums would average \$65 per month, adjusted for age, although students and those with incomes less than 100 percent of the federal poverty level would pay \$5 per month.

Though CBO and JCT did not offer a detailed explanation for the reduction in Medicaid spending, the Democratic advisor said it is likely because the CLASS program would be the primary payer for those enrolled in both programs, reducing Medicaid's obligation.

Republicans on the HELP committee have argued the program could add \$2 trillion in unfunded liabilities to the federal budget over a period of decades.

The HELP panel will consider the long-term care title of the health reform bill following the congressional July 4 recess.

From: Gotts, Jill M. (CMS/OL)

Sent: Thursday, June 11, 2009 4:07 PM

To: Hill, Susan N. (CMS/CMSO); Foster, Richard S. (CMS/OACT); George, Effie (CMSO/Intergovtl Personnel Act); Sowers, Mary P. (CMS/CMSO); Bosstick, Suzanne R. (CMS/CMSO); Smith, Carrie A. (CMS/CMSO); Peltz, Linda L. (CMS/CMSO)

Cc: Harris, Monica F. (CMS/CMSO); Hall, Candice J. (CMS/CMSO); Snow, Jennifer M. (CMS/OL); Harris, Kimberly A. (CMS/OACT); Pratt, Theresa A. (CMS/CMSO); Hall, Amy (CMS/OL); Boulanger, Jennifer L. (CMS); Guevara, Natalia T. (CMS/OL); Johnson, Donald N. (CMS/OL)

Subject: Update on CLASS Act

Colleagues,

I wanted to alert you to the release of the HELP Committee's health care reform legislation, which includes an updated version of the CLASS Act in Subtitle H beginning on page 153 (see: http://help.senate.gov/BAI09A84_xml.pdf). In addition to the one follow up item below, would you please let me know if you have any other comments on from a drafting perspective, after hearing from Connie what her intent is for some of the other issues we had flagged for her?

Most notably, the following comments were addressed, which is a testament to the tremendous value you add.

CMS Comment: New section 3202(2) of the Public Health Service Act. The definition of actively at work defines "work" loosely while "actively employed" may be a more appropriate use, given the intent and scope of this Title. The language/ definition does not appear to take into consideration those individuals that are self-employed, although subsequent sections do.

New Draft: Uses a definition of Actively Employed instead of Actively at Work.

CMS Comment: New section 3203(a)(1)(C) of the Public Health Service Act. Regarding the required # of ADLs or critical life functions, , in order to trigger the benefit, an individual has to be unable to perform (or requires supervision, cueing, etc) not less than 2, but not more than 3. Why is there a maximum number of ADLs or critical life functions for which they need assistance?

New Draft: References a minimum number of ADLs, which may be 2 or 3.

CMS Comment: New section 3203(c) of the Public Health Service Act, Self –Attestation and Verification of Income. Based on the language, it appears that the Secretary will need to establish procedures or rules for such purpose. Yet, the language as presented is primed for fraud. We would recommend including at least examples of verification such as data linking with IRS or income verification with Social Security or other state programs.

New Draft: New language, "(2) verify, using procedures similar to the procedures used by the Commissioner of Social Security under section 1631(e)(1)(B)(ii) of the Social Security Act and consistent with the requirements applicable to the conveyance of data and information under section 1942 of such Act, the validity of such self-attestation; and"

CMSO FOLLOW UP: Would you please verify that the cross references work to allow for income verification with IRS, for example? I thought that under section 1631(e)(1)(B) would be the citation rather than at the clause level.

CMS Comment: New section 3205(a)(2)(C)(ii) of the Public Health Service Act, Presumptive Eligibility for Certain Institutionalized Enrollees Planning to Discharge: We question whether "hospital" should be included here. It appears as though institutionalization qualifies a person for the maximum benefit with a simple attestation. Hospitalization often occurs for non-long-term care reasons and acute episodes should not be included.

New Draft: Clarifies that hospitalization is for long-term care.

CMS Comment: New section 3205(a)(2)(C)(iii) of the Public Health Service Act, Presumptive Eligibility for Certain Institutionalized Enrollees Planning to Discharge: Recommend inserting, "in the process of or within 60 days from the date of discharge from the hospital, facility or institution."

New Draft: Recommended language was inserted.

CMS Comment: New section 3205(c)(7) of the Public Health Service Act reads "SUPPLEMENT, NOT SUPPLANT OTHER HEALTH CARE BENEFITS.--Subject to the Medicaid payment rules under paragraph (1)(C) ..." The reference to paragraph (1)(C) appears to be incorrect. Perhaps the drafter intended to cross-reference paragraph (1)(D).

New Draft: Cross referenced changed.

<< File: CLASSAct comments.doc >>

From: Gotts, Jill M. (CMS/OL)
Sent: Wednesday, June 03, 2009 3:40 PM
To: Hill, Susan N. (CMS/CMSO); Foster, Richard S. (CMS/OACT); George, Effie (CMSO/Intergovtl Personnel Act); Sowers, Mary P. (CMS/CMSO); Bosstick, Suzanne R. (CMS/CMSO); Smith, Carrie A. (CMS/CMSO); Peltz, Linda L. (CMS/CMSO)
Cc: Harris, Monica F. (CMS/CMSO); Hall, Candice J. (CMS/CMSO); Snow, Jennifer M. (CMS/OL); Harris, Kimberly A. (CMS/OACT); Pratt, Theresa A. (CMS/CMSO)
Subject: RE: Hold for Conference Call with Connie Garner with the HELP Committee

Thank you all for participating on today's call, especially on such short notice and with the snafu with the written comments, which are attached. I apologize for not getting you the version that had been conveyed to Connie. With that said, we here in OL were very pleased with how the call went.

As soon as I have the new draft, I will circulate it among this group.

Your continued support is appreciated, and I look forward to continuing to work with you.

<< File: CLASSAct comments.doc >>

-----Original Appointment-----

From: Gotts, Jill M. (CMS/OL)
Sent: Monday, June 01, 2009 4:32 PM
To: Pratt, Theresa A. (CMS/CMSO); Hill, Susan N. (CMS/CMSO); Snow, Jennifer M. (CMS/OL); Hall, Amy (CMS/OL); Foster, Richard S. (CMS/OACT)
Cc: Guevara, Natalia T. (CMS/OL); Harris, Monica F. (CMS/CMSO); Hall, Candice J. (CMS/CMSO); Harris, Kimberly A. (CMS/OACT); George, Effie (CMSO/Intergovtl Personnel Act)
Subject: Hold for Conference Call with Connie Garner with the HELP Committee
When: Wednesday, June 03, 2009 2:15 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).
Where: DC meets in 341H; Baltimore staff call: 1-877-CMS-1577, pin code: 212592

5/3 Update: The meeting is being pushed back until 2:15, and we will likely be joined by Jeanne Lambrew who may kick off the call.

5/2 Update: I've updated the conference line accordingly with the new time. Let's also plan to keep this meeting to an hour given our limited availability after 3pm and determine at the conclusion of the call if we need to reschedule. I will also be inviting OACT.