the inside track

Better benefits at work.

The CLASS Act
Shining a light on America's need for long term care

An overview of the plan's provisions, limitations and financial viability

Community Living Assistance Services and Supports Act

Title VIII of The Patient Protection and Affordable Care Act

Key points of the CLASS Act

- A national voluntary plan
- Enrollment available to working Americans
- Employers can choose to participate
- Employees may opt out
- A five-year vesting period before benefits are payable
- A benefit of at least $50 per day
  - May be up to $75† depending on level of loss of abilities
- Benefits will be paid as long as the covered individuals continue to qualify for benefits
- Does not provide disability income insurance
- Can be used for:
  - Housing modification
  - Assistive technologies
  - Personal assistance services
  - Transportation
  - Respite care
- Benefits will be adjusted for inflation

† According to market estimates. There will be at least 2 but no more than 6 benefit levels with only the low end benefit amount currently established.

The opening line of a much-needed conversation

The CLASS Act has been heralded as an important "conversation starter" for drawing overdue national attention to a serious situation: an aging American population unprepared for the expense of long term care.

The Act has brought much-needed discussions to kitchen tables across the nation, as people begin to consider a critical question: how would they cope financially if they lose the ability to take care of themselves and must pay for care?

However, just as health care reform does not yet address the issue of high health care costs, the CLASS Act is not designed to provide full financial protection from the high expense of long term care that many will face. In fact, the easiest way to grasp how the CLASS Act works may be to compare it to today's medical or Social Security insurance systems.

Consider for a moment the way typical health care insurance works for a cancer patient.

While the basic medical plan provides critical assistance for every day medical treatment, it can fall short when it comes to the inordinate out-of-pocket cost of specialized cancer treatment. Although covered by insurance, the cancer patient can quickly run through a life's savings.

Similarly, the CLASS Act will provide a minimal long term care benefit for working people who need help bathing, dressing and taking care of themselves. But the benefit is not designed to fully compensate individuals for the cost of assisted living or nursing home care, which is often required for patients with Alzheimer's and other serious disorders.

12 million are predicted to need long term care by 2020[†].

[†]U.S. Department of Health and Human Services, "National Clearinghouse for Long-Term Care Information," updated October 2008.

Like Social Security, the CLASS Act can provide a modest safety net for workers, but probably won't be enough to offset the drain of long term care expenses on a retirement fund.

It is estimated that the first CLASS Act benefits won't be available until at least 2016; however, enrollment for the coverage may begin as early as 2011. In the meantime, Unum has compiled this detailed overview of the Act to help you stay informed and better understand the financial complexities of this legislation.

Key dates:
January 1, 2012 — Eligibility requirements finalized
October 1, 2012 — Plan designs developed by Health and Human Services
January 1, 2014 — Initial annual report on solvency due to Congress

Outlined in this document is the information available at the time the Act was signed into law. Still to be established and defined are these areas (among others):

- Implementation timeline
- Pricing specifics
- Plan design/benefits associated with each level of Activity of Daily Living (ADL) loss
- Assessment centers at the state level

The CLASS Act

A brief and quiet history

Although it was introduced in committee in 2009 as part of the proposed health care reform legislation, the CLASS Act received scant public attention as Congress and the nation hotly debated the rest of the historic law.

CLASS stands for Community Living Assistance Services and Supports Act. It was first conceived by the late Senator Ted Kennedy of Massachusetts, who envisioned the Act as a way to help individuals stay in their homes in the event of a serious illness. By making sure they have help with their Activities of Daily Living (ADLs), it's anticipated that some people may even be able to continue working in some capacity. The plan is also intended to reduce government spending on Medicaid.

This portion of the bill was signed into law without a great deal of publicity along with the rest of the health care reform package on March 23, 2010.

Understanding the intent of coverage

At its most basic level, The CLASS Act is a publicly sponsored long term care plan that offers a level of guaranteed issue[†] coverage to working Americans.

While private long term care coverage offers many advantages, it can be out of reach for many lower-wage individuals who live paycheck to paycheck. The premiums for CLASS Act coverage have not yet been established, but the law calls for affordable coverage.

It also provides a plan without medical underwriting. Unlike private insurance plans, this means no one can be turned away for coverage, provided they meet the eligibility requirements established by Health and Human Services. And the benefit would be payable as long as it is needed.

This coverage should not be confused with disability insurance or Social Security Disability Insurance, which can provide an income stream for those unable to work due to illness or injury.

[†]Guaranteed issue coverage does not require the employee to take a medical exam or answer health screening questions. Eligibility may include a wages test to verify employment.

The CLASS Act benefit will be payable when a covered individual experiences a loss of at least two ADLs or has severe cognitive impairment.

Activities of Daily Living

Bathing	The ability to wash oneself either in the tub or shower or by sponge bath with or without equipment or adaptive devices
Dressing	The ability to put on and take off all garments and medically necessary braces or artificial limbs usually worn
Toileting	The ability to get to and from and on and off the toilet, to maintain a reasonable level of personal hygiene, and to care for clothing
Transferring	The ability to move in and out of a chair or bed with or without equipment, such as canes, quad canes, walkers, crutches or grab bars or other support devices, including mechanical or motorized devices
Continence	The ability to either: Voluntarily control bowel and bladder function, *or* If incontinent, be able to maintain a reasonable level of personal hygiene
Eating	The ability to get nourishment into the body

Severe cognitive impairment

The deterioration or loss of intellectual capacity that requires substantial supervision by another person and is expected to last for at least 90 continuous days.

Can include: Traumatic brain injury, Alzheimer's disease, Multiple sclerosis

The Secretary of Health and Human Services is still developing the details of the plan, but the CLASS Act calls for a benefit of at least $50 per day and, according to the Congressional Budget Office, possibly up to $75 per day, based on the level of ADL loss.

This benefit can be used to purchase non-medical services. It cannot be used to offset copays or deductibles for medical expenses.

Here are some examples of how the benefit can be spent:

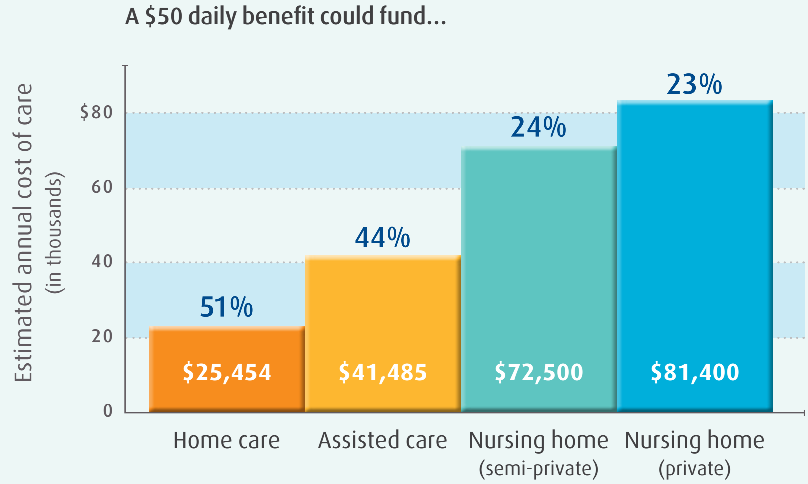
- Housing modification
- Assistive technologies
- Respite care
- Personal assistance services
- Transportation

The caregiver providing those services can be a family member, friend or hired help. If the insured individual needs care in an assisted living facility or nursing home, the benefit can be applied toward that cost.

Comparing the cost of care

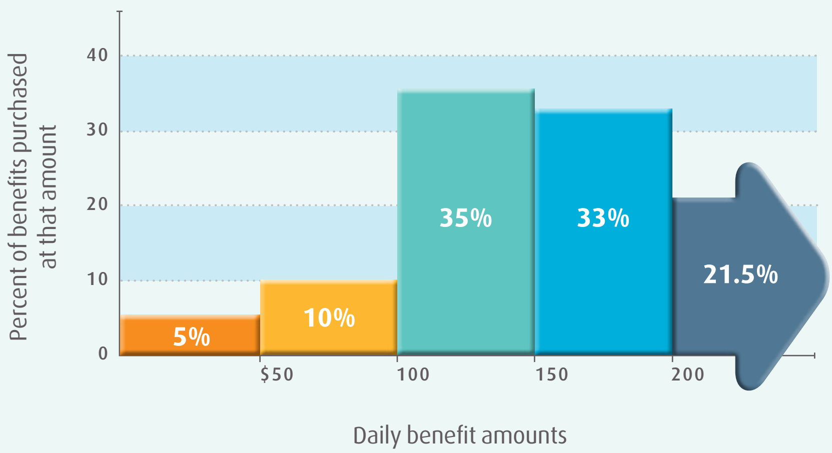
Although the law does permit covered individuals to use CLASS Act benefits toward assisted living or nursing home care, it was not designed, nor is it adequate to cover the full price of that type of care. A glance at the cost of long term care reveals a significant gap in coverage.

National average median rates for long term care:[1]



By way of comparison, private long term care plans can pay significantly higher benefits. Only 15% of benefits paid by private plans were $99 or less in 2007 (see chart below).[2]

Comparative evaluation of private long term care plan benefits:[3]



Other limits of the CLASS Act

While the prior sections discussed some limitations of the CLASS Act with respect to eligibility and costs, this section outlines some other plan elements that consumers and employers need to know about in order to make educated decisions regarding this coverage and avoid potential shortfalls in financial protection. There are four significant considerations:

1. The CLASS Act does not offer coverage for everyone.

This coverage is a national plan, but not available to all persons. People who are already retired or not working due to a disability, and family members who are eligible to enroll in private long term care coverage aren't eligible to enroll in the CLASS Act under the employee's plan.

According to the criteria for eligibility, anyone who wishes to enroll must:

- Be at least age 18
- Receive taxable wages; or, if self-employed, must be paying associated self employment taxes

Other requirements for eligibility include:

- Not be a patient in a hospital, nursing facility, intermediate care facility for the mentally retarded or an institution for mental disease and receiving medical assistance under Medicaid
- Not be incarcerated

2. The CLASS Act provides modest benefits designed primarily to offset the cost of in-home care.

Even at the maximum projected benefit of $75 per day, this coverage will not address the lion's share of serious long term care expenses. Here is a realistic scenario:†

A 37-year-old teacher is among the first to sign up for coverage under the CLASS ACT.

- Four years later, she has a severe stroke that disables the left side of her body.
- The patient is incontinent, and cannot dress or bathe herself.
- She has difficulty swallowing and significant cognitive impairment.
- Due to the severity of her stroke and her slow response to therapy, she requires two years of care in a nursing home.

The employee's financial impact:

- **During the first year,** the teacher receives no benefits from her CLASS Act coverage, because she has not yet satisfied the five year vesting period.
  - Based on the current average cost of care, she would owe $74,000 out-of-pocket for the private nursing facility.
  - She would presumably have less savings to draw from, having invested somewhere between $4,800 and $9,600 in payroll deductions to pay for coverage (based on current estimations).
- **During the second year,** she could receive a total of $27,000, based on the projected maximum benefit of $75 per day. She would owe an additional $47,000 out-of-pocket in addition to the expenses paid for by the benefit.
  - **To receive this benefit,** she would have to continue to pay premiums during the first year after her stroke to reach the 5 year vesting period.
- **Her total out-of-pocket bill for nursing care would be $121,000 for these 2 years.**

It's important to note that:

- Health insurance is not structured to offset this cost.
- Medicaid can eventually provide benefits, but only after the individual has exhausted virtually all financial assets.

Even after beginning to receive CLASS Act benefits, it is unclear if an individual will be required to continue to pay premiums.

†These are illustrative scenarios only.

3. The CLASS Act does not provide either short term or long term disability benefits.

In fact, expectations are that some beneficiaries may still be able to work in some capacity if they are able to receive help with their ADLs.

Consider this scenario:†

A 40-year-old assembly worker seriously injures his lumbar spine while coaching his son's soccer league.

- The worker needs surgery and is unable to lift enough weight to do his job for 9 months.
- He has no trouble feeding himself or using the bathroom.
- Dressing himself and getting in and out of bed are painful, but he is able to do so.

The employee's financial impact:

- Even though this worker is temporarily disabled, he would not qualify for a CLASS Act benefit because he has not experienced a loss of at least two of the Activities of Daily Living.

†These are illustrative scenarios only.

4. The CLASS Act may not require the level of consumer protection mandated for private long term care insurance by state & federal laws.

This plan may not be regulated by state insurance departments as is required for private insurance plans for consumer protection. No appeal process has been established for claim denials so far, but the law does call for one to be developed.

Specific provisions of the CLASS Act

To understand the eligibility, enrollment and lapse provisions of this plan, it is helpful to look at the timeline for implementation.

Here is a snapshot of the time that must elapse before the first covered individuals are vested in the plan and could qualify for benefits under the CLASS Act:

Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Jan. 1: Plan opens for enrollment.					First benefits paid if covered individuals have at least 2 ADLs or cognitive impairment and **if they**: • Have paid premiums for at least **5** years • Have been employed at least **36** months
No benefits payable during this period.					
Only **employed** individuals can sign up for coverage.					
Employers may offer plan through workplace. Employees may be auto-enrolled but can opt out.					

CLASS Act benefits will be paid as long as the covered individuals continue to qualify for benefits.

Benefit triggers — and forfeiture

To trigger a claim, a covered individual must provide proof of ADL loss or cognitive impairment from a licensed health care practitioner to the U.S. Department of Health and Human Services.

As noted, CLASS Act benefits will not be less than $50 per day and may range as high as $75 per day. Benefits presumably will be scaled, based on the level of impairment, but the actual methodology has yet to be developed. These benefits will be adjusted for inflation.

There is no lifetime maximum on the benefits paid. **However**, funds paid to an individual that are not used within the calendar year of payment are **forfeited**. Benefits can roll over month to month without any such loss.

Individuals who receive these benefits will periodically need to recertify their eligibility for CLASS Act benefits by submitting medical evidence.

The cost of coverage

The monthly premium for this coverage has yet to be formulated by the Secretary of Health and Human Services. Commonly quoted estimates range from the mid $100s to mid $200s for most Americans but much lower for the working poor.

The program will include a strong incentive to start coverage early in life. Younger employees (under age 22), full-time students who are also working, and those at the lowest income levels, are expected to pay reduced or "nominal" premiums. This premium is projected to begin at $5 per month and will be indexed to the urban consumer price Index (CPI-U).

In addition, we know that:

- Premiums are expected to be based on issue age.
- Premiums can be adjusted by the Secretary of Health and Human Services to make sure the program remains financially sound.
- Premiums will be paid with post-tax dollars
- Benefits are not taxable because they will be paid with post-tax dollars.

Enrollment options and limits

Employers are encouraged to offer CLASS Act coverage through the workplace, but they will not be required to do so. At companies offering the plan, employees may be automatically enrolled but can choose to opt-out. Employees who wish to participate can pay their premiums through payroll deduction.

If an employer does not offer the plan, employees who wish to participate (and those who are self-employed) will be offered an alternative process for enrolling and remitting premiums.

These are some of the requirements for the plan:

Initial opt out — Employees who opt out of coverage when it is first offered to them will have the right to enroll at a later date, but they will face higher premiums and can only enroll in the CLASS Act program during an open enrollment period scheduled by the Secretary of Health and Human Services. This open enrollment period will not be scheduled more frequently than once every two years. These late entrants will not be subject to underwriting but will begin the five year vesting period at the date of actual enrollment.

Opting out post-enrollment — Once an individual is enrolled in the program, he or she can only choose to opt out of the plan during an annual "disenrollment" period. The exception would be when premiums lapse (see below).

No family coverage — Unlike medical plans and some other insurance such as private long term care insurance, employees cannot enroll and pay premiums for other family members.

Unemployment after enrollment — Individuals who begin coverage while they are employed and then leave the workforce are eligible to remain in the program as long as they continue to make premium payments.

Lapsed coverage — Individuals who leave the workforce and stop making premium payments for three months or more will be treated as new enrollees and will be subject to the premiums associated with their age at the time they begin paying premiums again. They will not qualify for benefits unless they complete the five-year vesting period and have paid premiums steadily for at least 24 consecutive months during that time.

Re-enrollment credit — Individuals who re-enroll in the program within five years of letting their premium lapse will receive credit for the months of premium paid prior to the lapse. This means that the prior months of enrollment will count toward the five-year vesting period.

However, after a lapse of five years or more, participants will pay premiums at their new attained age and will pay an additional premium "penalty." This penalty will equal either 1% of the new age-adjusted premium or an amount determined by the Secretary of Health and Human Services.

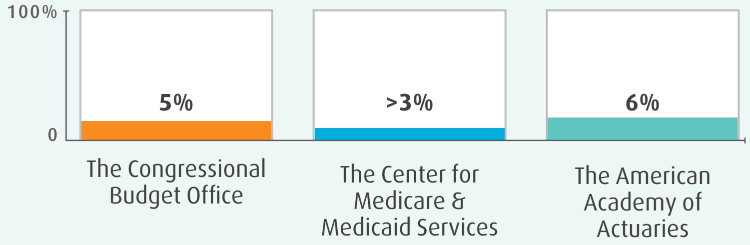
Interaction with Medicaid — In general, when an individual receiving CLASS Act benefits is also eligible for Medicaid long term care benefits, the CLASS Act plan will be the primary payer, with Medicaid long term care benefits being the secondary payer.

The question of financial viability

There has been considerable public debate on the funding mechanism for the CLASS Act and whether the program has the capacity to keep the plan financially solvent and independent for the long term.

Among those expressing concern are The American Academy of Actuaries. This group notes that with no medical underwriting and no real idea of how many people will participate in the plan, it is difficult for anyone to determine whether there will be a large enough population of enrolled "healthy" participants to provide sufficient funding for claims.

Projections of participation rates will vary.
Here are some expert estimates:[4]



As currently written, the CLASS Act is required to be solvent for 75 years. However, as noted by Richard Foster, the chief actuary at the Centers for Medicare and Medicaid Services, there is "significant risk that the program would be unsustainable."[5] This would mean that either the program would need to look to other sources of income via premium increase or alternate benefit plans to remain viable, or would cease to pay benefits.

A look at plan governance

So who will be charged with solving these issues? The law calls for a Board of Trustees to be established. The Board will include the heads of the Treasury, and the Departments of Labor and Health and Human Services, as well as two members of the public, with the selection process to be determined.

The Board will:

- Provide reports about the status of the CLASS Independence Fund
- Oversee general policies used for the administration of the Fund
- Report to Congress whenever the Board believes that there are concerns about the actuarial viability of the Fund

In addition, there will be another panel called the CLASS Independence Advisory Council appointed by the President, which will advise the Secretary on the administration and regulation of the program. This includes the development of the benefit plan, the establishment of the premium schedule and program solvency.

The Treasury Department will be charged with establishing a CLASS Independence Fund to hold all premium remitted by individuals who choose to participate in the plan. These dollars will be used to pay the benefits for the program and the associated administrative expenses.

The future impact on the workplace

How will the CLASS Act impact the long term care coverage offered in today's workplace? Brokers and employers will need to work consultatively to determine the best long term care strategy for each individual business and for its individual workers' needs.

Employers who choose to offer the public plan will have four major responsibilities. They will need to:

- Set up an auto-enrollment process
- Manage the opt-out option for employees who do not wish to participate
- Set up payroll deductions for premium for employees who choose to participate
- Remit those premiums to the federal government

Since the CLASS Act is not mandatory, it is just one option for consideration. There may be cases where a private plan with a higher benefit maximum is more appropriate for a certain workforce. And there may be times when an employer will prefer to offer both the public and private options, to appeal to workers at a variety of different levels of compensation.

As is true with all forms of employee benefits, education and communication will be key. As the CLASS Act shines a national spotlight on the nation's need for long term care coverage, employees may have more questions and need for information than ever before.

If you have questions about how to plan consultatively for this new era in employee benefits, call your Unum representative.

1 Based on Unum internal research. "Unum long term care cost survey 2008," Telephone survey of one-thousand nursing home facilities, assisted living facilities and home care agencies located in the United States. June through August 2009.
2,3 American Association for Long-Term Care Insurance, 2008 LTCI Sourcebook. The last year data is available.
4 Time magazine, "Should Long-Term-Care Insurance be Part of Health Reform," by Kate Picker, December 8, 2009.
5 National Underwriter, "CMS Actuary: CLASS Act Would Not Work," by Arthur Postal, November 17, 2009.

MK-2578 (4-10)