



SOCIETY OF ACTUARIES

Article from:

# Long Term Care Newsletter

April 2000 – Issue No. 2

# Federal Legislation Relating to Long-Term Care Insurance

by Loida R. Abraham

Over the past year, Congress and the Administration began paying closer attention to the issues relating to financing long-term care (LTC) services for individuals in need. Federal attention began early in 1999 with the President's State of the Union proposal to provide tax credits to family caregivers and to launch a nationwide educational campaign on long-term care insurance (LTCI).

It continued with the introduction of a myriad of federal bills pending in Congress that relate to the LTC issue. There is now broad recognition that LTC costs — whether for nursing homes, personal care, assisted living, or some combination — represent a potential budgetary crisis for individual families and for federal and state governments under the Medicaid program.

While Congress is seeking to address the financial risks of LTC, few Americans are doing anything to address what they see as a very big problem — financing LTC. Indeed, a study prepared by the National Council of Aging and the John Hancock Mutual Insurance Company determined that most Americans hold many misperceptions of key LTC facts, including the cost of such services, who needs them, and who will pay for them. Most Americans erroneously believe that Medicare will cover these costs. Most do not understand that to qualify for Medicaid coverage, a family must nearly exhaust its income and assets.

This article describes the different approaches that are under consideration in Washington, D.C., to address LTC costs. The key proposals include an above-the-line deduction from federal income taxes for premiums to

pay for LTCI and the creation of a LTCI program for federal employees.

## Above-the-line tax deduction

One of the most significant proposals pending in Congress would provide individuals with an above-the-line deduction from federal income taxes for premiums to pay for LTCI. The proposal is based on the rationale that planning for LTC should be a critical part of the retirement security plans of all Americans. Tax incentives are considered an effective way to encourage people to plan for their future needs.

Several bills were introduced throughout the year on a bipartisan basis by members in the House of Representatives and Senate. Senators Grassley (R-IA) and Graham (D-FL) introduced "The Long-Term Care Affordability and Availability Act of 1999" (S. 35), which would provide a 100% tax deduction for premiums. Representatives Johnson (R-CT) and Thurman (D-FL) introduced "The Long-Term Care and Retirement Security Act of 1999" (H.R. 2102), which would provide the above-the-line deduction over a phased-in period based on the number of years a person has held the insurance policy. Individuals could deduct 50% of the cost of their policy the first year. The percentage would increase each year thereafter. H.R. 2102 would also provide a tax credit for LTC services and caregivers, as first



proposed by the President.

Versions of these LTCI bills have been amended to other legislative vehicles that have moved through the legislative process. These bills include the Republicans' comprehensive tax package (which was later vetoed by the President), comprehensive patient protection legislation, and a minimum wage package that included several tax provisions for the business community.

All the proposals are intended to make LTCI policies more affordable and attractive to the general public, so that middle-income Americans begin to protect against the catastrophic costs associated with long-term illnesses.

While there is broad support for the legislation, the tax deduction is somewhat costly. The Congressional Budget Office (CBO), which must estimate the impact of public policy changes on the federal budget before their consideration, has attached a cost of \$3.3 billion over five years and \$7.3 billion over ten years. This makes it very difficult to advance the proposal on its own. If the tax deduction legislation passes, it likely

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will be enacted as an amendment to another larger bill.

### **Long-Term Care Insurance For Federal Employees**

The second major initiative under consideration in Congress is the creation of a LTCI program for federal employees. Currently, federal employees do not have the option to purchase LTCI through an employer-based plan. Congress is hoping that such a federal program will serve to educate and encourage the general public to purchase LTCI coverage as well as to assist federal employees directly. Whether such a

without her support. She has introduced her own measure, "The Federal Civilian Uniformed Services Long-Term Care Insurance Act of 1999" (H.R. 1111), which enjoys the bipartisan support of more than 120 cosponsors.

Most of the legislative action has occurred on the House side, which has held a series of hearings on the matter.

In general, there are two approaches to the federal program. One version would allow all insurance companies to compete for the federal employee's business at the retail or "street" level. This

### **The Outlook**

It is clear that there is broad support in Washington for proposals that encourage individuals to invest in LTCI. Whether these proposals are successful in the next session of this Congress will depend on considerations that are mainly procedural and political, rather than substantive.

Next November, control of the House of Representatives, possibly the Senate, and the White House is at stake. Whether either party in Congress will be willing to provide a legislative victory to the other will depend on how strong they perceive the public's demand to be.

Moreover, in the case of the above-the-line tax deduction, it will depend on whether another tax package or health care package can advance.

With regard to the federal employee program, it will depend on how vigorously the federal workforce, retirees and insurance companies seek such legislation.

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federal program is successful will depend in large part on how the bidding process is structured and how it addresses many critical contractual, statutory, and administrative issues.

Several bipartisan bills have been introduced in both the House and Senate relating to this federal program. The main players in the debate are Representative Joe Scarborough (R-FL), chairman of the House Government Reform Subcommittee on Civil Service; Representative Elijah Cummings (D-MD), the ranking Democrat on the Civil Service Subcommittee; and Representative Constance Morella (R-MD), a key member on the subcommittee. Morella has positioned herself as the swing vote on the Civil Service Committee, because the chairman cannot advance his bill

is currently the committee chairman's approach. Another model, which has the support of most of the major insurance companies, is reflected in a modified version of the Morella bill. It would require companies or consortia of companies to compete for one federal contract, and the winning company or consortium would provide group coverage to the federal workforce.

Proposals also provide tax credits for individuals who provide LTC services to their family members.

The Administration also plans to conduct a nationwide campaign to educate people to the importance of planning for their LTC needs and for the first time, to include explanatory material in a Medicare mailer sent to millions of seniors every year.