Insight

The Non-Viable CLASS Act

ROBERT BOOK | JANUARY 30, 2012

One of Sen. Ted Kennedy's long-standing goals was the establishment of a federal program for long-term care for the infirm and disabled. This goal was – apparently – achieved posthumously when his Community Living Assistance Services and Supports (CLASS) Act was incorporated into the Patient Protection and Affordable Care Act (PPACA).

The CLASS program provides for voluntary enrollment, open to virtually any employed American over age 18, in a government-run plan to provide long-term care in the event that an enrollee needs it in the future. There is no medical underwriting – that is, premiums would not depend on an enrollees' health status – but there would be a five-year waiting period before benefits could be collected. This plan was attractive to the proponents of the PPACA not only because of the benefits of long-term care insurance, but also because collecting premiums for the first five years without having to pay benefits would substantially improve the PPACA's apparent deficit performance under the CBO scoring rules.

Perhaps uncharacteristically for a government program, CLASS has a built-in requirement that the program be "actuarially sound" according to "techniques and methodologies … generally accepted within the actuarial profession" as certified by the Medicare Chief Actuary.

And therein lies the problem. It turns out that when anyone can enroll in an "insurance" program, and everyone has to be charged the same rates regardless of their risk of filing a claim, those who are most likely to need to coverage are also those most likely to enroll. For the plan to break even, premiums have to be set to take this into account. This makes the plan a lousy deal for lower risk individuals, who then decide not to enroll – which in turn requires premiums to go even higher, leading more people to decline enrollment. This phenomenon is known as "adverse selection," and it can occur whenever potential enrollees have a better idea of their risk level than can be reflected in premiums. In some cases, the effect can be so strong that premiums increase to the point that almost no one finds it worthwhile to enroll. (Economist George Akerlof received the Nobel Prize in 2001 in part for identifying this phenomenon.)

On October 14, 2011, Secretary of Health and Human Services Kathleen Sebelius reported to Congress that this problem could not be overcome, and "despite our best analytical efforts, I do not see a viable path forward for CLASS implementation at this time." As the full report showed, honest analysis had won out over politics. Lawmakers of both parties acknowledged the program was unsustainable,with one Democrat calling it "a Ponzi scheme of the first order."

Still, the CLASS Act remains the law of the land, and the Obama administration has opposed repealing it – despite the fact that they are on record saying it cannot be implemented as written. As long as the law remains on the books, there is the risk that this administration, or some future administration, could do a pretend actuarial analysis that produces the answer they want, and saddle future generations with yet another unsustainable government program.

On Wednesday, the House is planning a vote on repealing the CLASS Act, after the House Energy and Commerce Committee passed a repeal bill last November. A full repeal is the only way to protect future generations from a unilateral decision by a future administration to implement an unsustainable program – and perhaps pave the way for a better solution to the long-term care challenge.

Originially posted on Forbes