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HHS Releases CLASS Program FAQs

HHS recently released FAQs relating to the CLASS program, a long-term care program established by PPACA. The FAQs address, in very general terms, who will be eligible to enroll in and receive benefits under the program, what benefits the program may or must offer, and the employer's role in the program. HHS has until October 1, 2012 to provide comprehensive guidance implementing the CLASS program.

Background

The Patient Protection and Affordable Care Act as amended by the Health Care and Education Reconciliation Act of 2010 (together, PPACA) established the Community Living Assistance Services and Supports program (CLASS program). The CLASS program is a voluntary, federally administered long-term care insurance program. Under the program, working adults age 18 or older will be able to voluntarily enroll either directly or through their employers without providing information regarding their health status. Those who enroll and later become eligible for benefits will receive benefits to purchase long-term care services and supports.

While PPACA made the CLASS program provisions effective on January 1, 2011, the program is not yet operable. PPACA requires the Department of Health and Human Services (HHS) to announce the details of the CLASS program by October 1, 2012 after considering recommendations from the CLASS Independence Advisory Council (Council). The Council is charged with advising HHS on matters of general policy in the administration of the CLASS program and in the formulation of regulations regarding (1) the development of the CLASS benefit, (2) the determination of the CLASS program's monthly premiums, and (3) the financial solvency of the program. HHS solicited nominations for the Council on November 16, 2010. Council membership has not been established yet.

Frequently Asked Questions

In March 2011, HHS posted on the Administration on Aging's website ["Frequently Asked Questions"](#) (FAQs) relating to the CLASS program. The FAQs describe the program and answer questions regarding enrollment in and the benefits provided under the CLASS program.

Eligibility to Enroll. Enrollment in the CLASS program is voluntary and generally available to working adults age 18 or older. An individual will not be denied enrollment in the program because of a pre-existing condition or for any medical reason. Persons who are fully retired are not eligible to enroll in the program. In addition, HHS regulations may provide that persons who retire within the next few years will not be eligible for benefits because they will not meet the program's minimum income and years of earnings requirements.

BUCK COMMENT. *Because persons with pre-existing conditions can enroll in the CLASS program, there is a concern that the program will attract an unhealthy risk pool that will result in high premiums and discourage enrollment.*

Eligibility to Receive Benefits. Before individuals can receive benefits under the CLASS program, they must:

- Have an eligible functional limitation;
- Earn wages of a certain amount over a period of time after enrollment; and
- Pay premiums for at least 60 months and comply with other premium payment requirements.

Benefits Offered. While HHS has not yet developed the CLASS program benefit plan, PPACA requires that the benefit plan include a cash benefit averaging at least \$50 per day. In addition, the benefits under the program cannot be subject to any lifetime limit.

Medicare and health insurance typically pay for acute care with the expectation that an individual will need care for a defined period. The CLASS program is designed to provide benefits to cover expenses related to long-term care for chronic conditions. Participants will be able to use CLASS program benefits to help pay for care received at home, as well as care offered at a nursing home or assisted living facility.

Employer Considerations. Employers do not have to offer CLASS program participation to their employees. Under the program, employers may choose to automatically enroll their employees in the program, and employees automatically enrolled may opt-out of enrollment.

BUCK COMMENT. *If an employer decides not to offer CLASS automatic enrollment, an employee may still enroll in the program if he or she meets the enrollment eligibility requirements.*

Effective Date. The FAQs reiterate that HHS has until October 1, 2012 to announce the details of the CLASS program. No enrollment will take place before the program details are announced.

BUCK COMMENT. *Some have questioned the financial sustainability of the CLASS program. In the FAQs, HHS states that taxpayer funds will not pay for CLASS program benefits. In March 2011, an HHS official, testifying at a Congressional hearing, stated that HHS will not move forward with the CLASS program until it is clear that the program will be sustainable. The HHS official acknowledged that broad enrollment is critical to the CLASS program's success.*

Conclusion

While employers do not need to take any action or make any decisions until HHS actually establishes the CLASS program, they should be reviewing their current long-term care offerings, or lack thereof, to determine whether the CLASS program would be a viable option when (and if) it becomes effective.

Buck's consultants are available to assist you in understanding the CLASS program.

This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.