

Long Term Care Benefits in Federal Health Reform Legislation



Introduction

People in need of long term care services will experience a significant number of changes and opportunities to obtain community-based care under health reform in the coming years. This summary focuses primarily on provisions affecting the population as it ages, but some of these and numerous other provisions are also relevant to younger people with chronic conditions.

General Provisions Affecting People with Chronic Conditions and Long Term Care Needs

While this list is by no means exhaustive, some broad provisions that will affect all individuals, and are especially relevant to people with chronic conditions, include the following:

- Beginning this year, no one can be denied health care coverage on the basis of pre-existing conditions, which are nearly always present in people with long term care needs.
- There is a new prohibition on policy rescissions, which means that people's insurance can't be cancelled after they are diagnosed with a chronic condition just because they have the condition.
- In 2014, the expansion of Medicaid eligibility to households earning up to 133% of poverty (\$14,404 for an individual, \$29,327 for a family of 4) will mean that Medicaid coverage for long-term care services will become available to more people.
- Funding for patient navigation services will make more navigators available to assist people with in managing their care, and obtaining it where and when they need it.

Specific Long Term Care Benefits in the New Legislation

In addition, there are a number of other provisions scattered in the new law that will add additional programs and benefits. Again, this list is not intended to highlight everything in the new law.

CLASS Program

A major new long term care insurance program, called Community Living Assistance Services and Supports, or CLASS, has been created, which will establish a national voluntary long term care insurance program. The benefit plan or plans, with multiple options for consumers, must be designated by October 2012. People who purchase long term care insurance under the CLASS Program will be eligible to receive benefits after paying premiums for five years. There are also provisions that assure that the insurance will not be cancelled during the waiting period if they miss a premium payment for up to three months.

Under the CLASS Program, cash benefits of \$50 per day will kick in after recipients have a functional limitation in two or more Activities of Daily Living (ADLs) that is expected to last for at least 90 days. ADLs include dressing, feeding, toileting, transferring, etc. The cash benefits

can be used for health or non-medical services, such as home repair or homemaker services, with no limitations or lifetime maximums.

The CLASS Program plans will be solvent for at least 75 years, and final premiums will be set to make sure that they are self-sufficient and self-sustaining, using no taxpayer dollars. Everyone with taxable income is eligible to participate, and the insurance will be available both to individuals and to employee groups. Premiums will be frozen for people who are age 65, retired, and have paid premiums for 20 years, and students and people living below poverty will be offered a discounted premium.

If people with CLASS long term care insurance enter a nursing home and need Medicaid, they will be allowed to keep 5% of their cash benefit, but if they remain in the community and need Medicaid, they will be able to keep 50% of the benefit. CLASS payments are not considered in determining eligibility for Medicaid or Medicare. Beginning in 2014, there will be an Annual Report on the program.

Because CLASS is expected to increase dramatically the demand for care attendants, homemaker, and home health workers, the reform law requires states to set up mechanisms within two years, such as expanding and increasing training programs, to assure an adequate supply of these workers.

Other Long Term Care Provisions

The reform law, as amended under reconciliation, creates a new “Community First Choice” Medicaid Option, which allows states to provide community care attendants for people who would otherwise be in an Intermediate Care Facility for People with Mental Retardation (ICFMR), a hospital, or a nursing home. This state Medicaid Option becomes available beginning on October 1, 2011. The use of the Medicaid “Option” for this is more advantageous for states than the “waiver” process, because the Federal approval process is simpler.

Another provision allows states to provide even more Home and Community-Based Services (HCBS) through state plan amendments, as opposed to waivers, meaning that states with larger elder populations will be able to get federal reimbursement for a greater number of services provided in the community.

For individuals who resided in inpatient facilities for 90 days, the “Money Follows the Person Rebalancing Demonstration” has been extended through September, 2016. In 2007, thirty states were awarded over \$1.4 billion over a five-year period to help transition over 30,000 people from institutional to community services under this program. These states anticipate savings in dollars as they provide more varied services in response to individuals’ needs. (Florida is not one of the participating states.)

Another section of the law requires that beginning in 2014 and extending through 2019, states must protect spouses against impoverishment by extending spousal impoverishment rules from nursing homes to Home and Community-Based Services. These rules currently protect some of the income and assets of a couple when one spouse enters a nursing home, and the new law extends the protections to community care as well.

The law also provides for a new Medicaid option for states to enroll people with chronic conditions into health homes, where services covered under Medicaid will include care coordination.

Another Medicaid-related provision provides for an up-to-8 state demonstration program under Medicaid to allow for bundled payments to hospitals and physicians to improve care coordination.

Some of the changes affecting Medicare in the new law will also provide relief and increased benefits to people with chronic conditions. For example:

- The closing of the prescription drug donut hole will result in a \$250 rebate in 2010 for Medicare recipients with high prescription drug costs, and the current hole in coverage will then be closed gradually over the next ten years.
- Medicare Advantage plans will be required to have loss ratios of at least 85%, meaning that at least 85 cents out of every dollar taken in must be paid out in health benefits under the plan.
- An annual wellness visit must be paid in full under Medicare.

Also, the new law provides \$45 million in funding for outreach and education through state health insurance programs, Aging Disability Resource Centers, the Administration on Aging, and National Benefits Outreach and Enrollment to help find and educate eligible people about these and other benefits under the law.

Conclusion

These represent just some of the long term care provisions in the new law. Clearly, the law continues and accelerates a trend that began a generation ago toward favoring home and community-based services to people with long term care needs. While it will be many more years before all of the provisions of the reform law will be fully in effect, older Americans in particular will see more opportunities and support for staying in their homes as they wish as they manage their chronic conditions.

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