

A Closer Look

The Community Living Assistance Services and Supports Act: A closer look

Editor's note: The following is an excerpt from the LSI Elder Care Planning Newsletter #13. It is reprinted with permission and edited for Retirement Weekly.

On March 23, 2010, President Obama signed the Patient Protection and Affordable Care Act into law. Included in the PPACA was the Community Living Assistance Services and Supports Act (CLASS). CLASS establishes a national voluntary insurance program designed to assist adults with severe functional impairments in obtaining the services and supports needed for them to stay functional and independent.

Under the CLASS program, eligible participants will pay monthly premiums in return for a long-term care benefit should they develop a disability. Each participant's benefit will be based on his or her difficulty in performing basic life activities (bathing or dressing). The most appealing part of the CLASS program is that it will not require screening of applicants for health problems (prior or existing) and will allow all individuals to enroll (even those who might not otherwise qualify for private long-term care insurance policy).

According to Marc Soss, an estate-planning and tax attorney in Florida, CLASS wasn't intended to replace a private long-term care insurance policy, but rather was designed to provide those who may not be eligible or able to afford a private policy with an alternative. Only a private long-term insurance policy is designed to pay for the ballooning cost of long-term care, but a CLASS program policy may serve as a good supplement, and may also lower an individual's taxable income below the new Medicare tax on high-income households, according to Soss. Below is Soss' commentary:

Summary — An estimated 10 million Americans (expected to increase to 15 million in 2020) are currently in need of long-term care services and support. With the exception of those able to afford a private long-term care policy or already covered by one, neither the Supplemental Security Insurance (SSI) nor Old, Age, Survivors, and Disability Insurance (OASDI) programs will provide benefits to fill the gap. As a result, Americans unable to afford a private long-term care or who have or develop severe functional impairments can only access coverage for the services critical to their independence (such as housing modifications, assistive technologies, transportation, and personal assistance services), through Medicaid.

In order to assist those individuals President Obama signed the Patient Protection and Affordable Care Act (PPACA) into law on March 23, 2010. Included in PPACA was the Community Living Assistance Services and Supports Act (CLASS). CLASS establishes a national voluntary insurance program designed to assist adults with severe functional impairments in obtaining the services and supports needed for them to stay functional and independent.

Facts— Under the CLASS program, eligible participants will pay monthly premiums in return for a long-term care benefit should they develop a disability. Each participant's benefit will be based on his or her difficulty in performing basic life activities (bathing or dressing). The most appealing part of the CLASS program is that it will not require screening of applicants for health problems (prior or existing) and will allow all individuals to enroll (even those who might not otherwise qualify for private long-term care in-

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insurance policy).

CLASS requirements — Participation in the CLASS program requires: (i) a monthly premium payment (subject to annual increases) through employer payroll deduction; and (ii) 60 months of premium payments and employment during at least three of those five years. In return, the participant will be entitled to a lifetime cash benefit, based upon his or her degree of impairment, as long as the claimant remains disabled.

Employees will be automatically enrolled in the CLASS program (just like social security) unless they opt out. Employees who opt out of the CLASS program may later opt back in subject to higher premiums and requirements. Self-employed individuals or those whose employers do not offer the CLASS benefit program will also be able to join the program through a government payment mechanism.

It is anticipated that monthly plan premiums will not be increased for participants who remain an active enrollee in the program. A monthly premium increase will also not apply to an active enrollee who: (i) has attained age 65; (ii) has paid plan premiums for at least 20 years; or (iii) is not actively employed.

Benefit triggers — Participants will become eligible to receive plan benefits upon a determination that they have a functional limitation, certified by a licensed health care practitioner, expected to last for a continuous period greater than 90 days.

The determination must find that the participant:

(i) is unable to perform at least the minimum number (which may be two or three) of daily living activities; or

(ii) requires substantial supervision to protect him or her from threats to their health and safety due to substantial cognitive impairment.

There will be no cap on the lifetime benefit a participant can receive.

Impact on other government benefits and programs — A CLASS program participant who resides in a hospital, nursing facility, intermediate care facility, or an institution for mental diseases, will only be able to retain five percent of their cash benefit. The balance will be applied toward the facility's cost of providing the participant's care, with Medicaid serving as the secondary coverage.

In contrast, a plan participant who subsequently receives medical benefits under Medicaid will be able to retain fifty (50%) percent of his or her program cash benefit. The balance will be paid to the State providing the assistance. Benefits received under the CLASS program will be disregarded for government benefits (Federal, state, or locally funded) eligibility purposes. Program benefits will also have no impact on a participant's use of cash benefits paid into a Life Independence Account.

Comment — The CLASS program is not intended to replace a private long-term care insurance policy but provide those individuals, who may not be eligible or able to afford a private policy, with an alternative. Only a private long-term insurance policy is designed to pay for the ballooning cost of long-term care. However, a CLASS program policy may serve as a good supplement. The program may also serve as a means to lower an individual's taxable income below the new Medicare tax on high-income households.

In addition, despite being signed in law in March 2010, the Department of Health and Human Services will not bring the program into effect until 2012. **RW**

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Attorney Marc Soss examines the Community Living Assistance Services and Supports Act (P. 11)



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Social Security and divorce

Are you eligible for a benefit based on your ex-spouse's record of work and earnings?

By Neil Downing, CFP®

If you're planning to collect Social Security, or you're already drawing a monthly benefit, you may be eligible for a higher amount through a source you may have thought unlikely – your ex-spouse.

Normally, the amount of your Social Security benefit is based on your own record of work and earnings under the Social Security system – or on that of your spouse.

But if you've been divorced, you may be eligible for a benefit based on your ex-spouse's record of work and earnings. If so, the Social Security Administration can calculate your monthly benefit two ways: the first based on your own record, the second based on your ex-spouse's record. You may be eligible for whichever pays you more.

For instance, if you're eligible for \$500 a month in benefits based on your own record, but \$750 a month based on your ex-spouse's record, you could receive \$750 a month.

If your ex-spouse has died, you may still be eligible for a benefit based on that person's record.

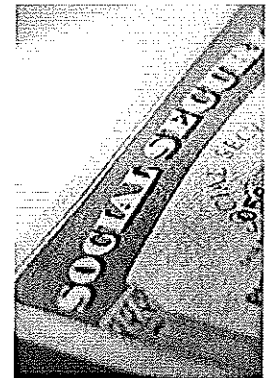
All this won't happen automatically; you must ask the Social Security Administration whether you're eligible and how much you might receive as a result. To do this, call the agency toll-free at 1-800-772-1213, or visit your local Social Security office.

That extra effort could pay off, said Cindy Hounsell, president of the Women's Institute for a Secure Retirement (WISER), a nonprofit group that helps women and others understand issues involving retirement income.

"The thing you need to do is maximize your income for the future," and one way to do that is by checking to see if you may be eligible for a higher Social Security benefit based on your ex-spouse's record, she said. "I can't tell you how many people... are out there and don't have any idea" about how the rules work and how those rules apply to them, she said.

How the law evolved

When Social Security was established in 1935, it provided benefits



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