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The CLASS Act: A Missed Opportunity in Health Care Reform

JURIST Guest Columnist Ann Schunicht, [Saint Louis University School of Law](#) Class of 2012, is a member of the Health Law Moot Court Competition Team. She compares the recently abandoned CLASS Act to France's long-term health care system, arguing that the act's failure was a missed opportunity to explore the impact of this long-term home care scheme...



In October 2011, the Obama administration abandoned a piece of the [Patient Protection and Affordable Care Act \(PPACA\)](#) because US health officials could not create a voluntary, budget-neutral program under the [Community Living Assistance Services and Supports Act \(CLASS Act\)](#). Beginning in October 2012, the CLASS Act would have provided funds to disabled and elderly citizens for long-term home care. These funds would not have replaced basic health insurance, long-term care coverage from Medicaid or other forms of private insurance; rather it would have supplemented existing insurance and paid for independent living expenses.

The CLASS Act provided that enrollees would participate on a voluntary basis in a fund that would function as a national insurance program. Working adults would have made voluntary premium contributions, paid directly to the fund, or deductions would have been taken from their paychecks. In order to receive benefits, the policyholder would have had to pay monthly premiums for at least five years and have been employed during three of those five years. Further, in order to receive benefits, the individual would have had to have suffered from multiple functional limitations or cognitive impairments. The impairment must have been expected to last for a continuous period of more than 90 days.

Premiums paid by enrollees and interest earned on the fund balance would have subsidized the CLASS Act fund. The premium rates would have varied; for example, younger enrollees would have paid less than older enrollees. In addition, individuals with income below the federal poverty level and employed full-time students would have paid lower premiums. The funds could have been used for home health care, adult day care, assistive technology, home modifications, personal assistance services, respite care, accessible transportation and homemaker services.

The CLASS Act was a hard political sell from the beginning. Projections showed a low enrollment rate, especially from the healthy population, and future costs outweighed future income. Originally, the Congressional Budget Office (CBO) estimated that in the first decade, the CLASS Act would reduce the federal deficit by \$70 billion. The CBO also projected a reduction in Medicaid spending over a decade because fewer individuals would enter institutional living and would qualify for

Medicaid. Despite the benefits, the CBO found that the CLASS Act would lose money after 10 to 20 years, when the costs of the benefits would have begun to exceed the premiums.

With the CLASS Act removed from the PPACA, Americans must solve the problem of how to finance elder and end-of-life care. The passage of the CLASS Act would have created a voluntary and public national insurance program that would have helped to alleviate the high cost of long-term care. It is estimated that two-thirds of Americans will need some type of long-term care later in life. Despite this high proportion of Americans, only half of current retirees have saved over \$55,000 for long-term care. Additionally, only seven million Americans own long-term-care insurance policies.

Policies similar to the CLASS Act do exist in other countries, and they help aging populations to pay for long-term care. In 2002, France adopted a system called the *Allocation Personnalisée d'Autonomie* (APA), a long-term care insurance system funded by the general tax and administered at a regional level. The French government determines the enrollees of the insurance program based on income, and enrollees with lower incomes receive more benefits. On the other hand, individuals with higher incomes and lower public long-term care benefits, purchase private long-term care insurance to supplement their government benefits. France's public health insurance system provides its enrollees with health care in institutions and at home.

The CLASS Act and the APA have similarities and differences. In France, the APA provides funds for people 60 years of age and over, whereas the CLASS Act does not have an age requirement. Instead, CLASS Act enrollees would have been eligible after making five years of premium payments into the system. Like the CLASS Act, the APA does not provide benefits unless the patient has suffered a loss of autonomy, which is to say that an individual needs help with at least three daily living activities. The CLASS Act limited eligibility to individuals unable to perform two or more activities of daily living, or to those with a cognitive disability that required supervision or assistance in performing these activities. Similar to the CLASS Act, the APA allows beneficiaries to spend the monthly cash allowance on a variety of long-term care purposes, including hiring caregivers, paying family members to function as caregivers or even renovating homes in order to improve mobility.

The enactment of the CLASS Act would have moved the US towards a public, national insurance plan focused on alleviating the cost of long-term care. The system would have functioned very similarly to France's APA, providing a monthly credit for any necessary form of long-term care. If the CLASS Act had followed in the footsteps of France's APA, it may have cost more than anticipated. The expected first year cost of the APA was \$3.6 billion, but actual costs totaled \$4.9 billion. With current low private enrollment rates in long-term care policies in the US, enrollment rates in the CLASS Act may have remained low or individuals may have taken advantage of the credit system and begun to pay the monthly premiums. It is difficult to say.

However, without the CLASS Act, the US remains with its current method of long-term care, which includes government-managed, long-term care insurance through tax incentives and increased Medicaid coverage. The PPACA is a significant piece of health care reform legislation that will benefit the nation, and Americans will never know if the CLASS Act would have continued this trend.

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