

Still No Relief in Sight for Long-Term Needs

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WASHINGTON — The law that many Americans had hoped would transform the nation's dysfunctional system of long-term care for the [swelling](#) ranks of people with disabilities and [dementia](#) quietly died this month, a victim of its own weaknesses, a toxic political environment and President Obama's re-election campaign focus on jobs.



Mike Theiler/Reuters

HEARINGS Representative Dan Rostenkowski, right, in 1994 with a staff assistant, Tim Crippen. The Clinton health plan tried to improve long-term care, but the bill failed.

Its demise came as an intense disappointment to people like Alison Briolat, a chemist for a pharmaceutical company, whose family is staggering under the burdens of caring for her bedridden parents.

“Everybody at work is very glib about how they’ll never be a burden to their children and how I’m such a saint,” she said. “But unless you have millions sitting in the bank, there’s no other way.”

Unlike the rich, who can afford to pay for services themselves, or the poor, who get help through [Medicaid](#), the federal and state program for low-income people, many members of the middle class have to look after disabled relatives themselves, or pay someone to do it. Polls show that many people believe that [Medicare](#), the federal health program for those 65 and older, pays for such care. Actually, Medicare stops paying nursing home bills after 100 days.

More than 10 million people in the United States already have long-term care needs, and two-thirds of the costs are paid for by government programs, mostly Medicaid. Studies estimate that unpaid family members deliver an even larger share of the care, and the cost of nursing home care averages \$72,000 a year.

Ms. Briolat's parents live in a downstairs bedroom in her home in Lebanon, Ohio. Her father's decline began eight years ago when he broke his ankle, an injury that failed to heal even after four operations. His foot became infected and was amputated. He went into a nursing home.

Ms. Briolat's mother, burdened by her husband's growing needs, soon went into decline as well. By then, five months of nursing home care had already cost the family \$60,000. Ms. Briolat moved them both into her home. She pays a home health aide while she and her husband work.

The Community Living Assistance Services and Support program, or the Class Act, was intended to provide a benefit that averaged at least \$50 a day, or \$18,000 a year. If such a law had been on the books in time for her parents, it would have paid for most of their care.

"We wouldn't have had to sell their house in Michigan at a fire sale price," she said.

But the Class Act's ambitions were undercut by an impractical structure that doomed it from the start, experts and government actuaries say. Its failure harks back to an attempt by President Ronald Reagan and a Democratic Congress to protect the elderly from catastrophic medical expenses and provide a modest prescription drug benefit and somewhat improved nursing home care.

That law, the Medicare Catastrophic Coverage Act of 1988, was repealed within months of enactment after a furious response by elderly voters angry that they had to pay for the benefits themselves through a tax mostly paid by the wealthy. In a famous scene, Representative Dan Rostenkowski, an Illinois Democrat who was chairman of the powerful House Ways and Means Committee, was booed and chased down a Chicago street by a group of elderly people, one of whom draped herself over the hood of his car.

The repeal legislation created a commission to examine the issue of long-term care, but it ended the appetite of many in Congress to resolve the issue. The Clinton health plan made another attempt at improving long-term care, but the bill failed. And now the demise of the Class Act is repeating history.

Senator Edward M. Kennedy made passing the Class Act one of his last priorities, and his advocacy was an important reason that the program, despite its flaws, was included in the overhaul of the health law in 2010. But the Class Act was unusually sparse in its details — accounting for just 20 of the bill's 900 pages. Senator Judd Gregg, Republican of New Hampshire, succeeded in adding an amendment requiring the administration to certify that the program would be self-sustaining for 75 years before enacting it. The administration concluded that it could not make that certification, killing the program.

Less than 3 percent of Americans now buy private long-term care insurance. The government's version of long-term care insurance shared a basic flaw with commercial options: It was voluntary, with benefits to be paid entirely by premiums.

The Class Act allowed anyone — even those with serious health problems — to sign up. Policy holders had to pay premiums for only five years and could then get benefits for life.

The poor could pay just \$5 a month. Both promises all but guaranteed that the program would have needed big government subsidies to avoid going broke, experts said. Internal documents from the Department of Health and Human Services show that officials had doubts about the viability of the Class program before it was signed into law by President Obama. Richard S. Foster, the chief actuary at the federal Centers for Medicare and Medicaid Services, wrote in July 2009 that “36 years of actuarial experience lead me to believe that this program would collapse in short order and require significant federal subsidies to continue.”

The Obama administration continued to insist that the proposed long-term care program would be solvent over 75 years. But even some prominent Democrats disagreed. As the Senate considered the health bill in December 2009, 11 Democrats, including the chairmen of the Finance and Budget Committees, supported efforts by Senator John Thune, Republican of South Dakota, to eliminate the long-term care insurance program.

Senator Charles E. Grassley, Republican of Iowa, said recently, “Everyone involved in the debate knew the proposal was impossible to deliver, and many of us said so.”

If the program had restricted enrollment to the healthy, limited payouts to five years and eliminated subsidies for the poor, it might have worked, said Joshua M. Wiener, a fellow at RTI International, a nonprofit research group. But advocates for the disabled were among the program’s biggest backers, and opposed the restrictions.

The program’s chief actuary, Robert Yee, said that limiting initial enrollment to workers at large companies or excluding benefits for 15 years also might have worked. But such fixes would have required new legislation, and the Obama administration concluded that such a bill had no chance of passing the present Congress, with Republicans, who control the House and can frustrate legislative efforts in the Senate, pushing for outright repeal of the entire [health care law](#).

The president’s advisers decided that another fight over the health reform law would be a politically damaging distraction for his re-election prospects and ill timed, given the need to enact the broader health care law, itself under serious legal challenge

Advocates for the Class Act say they have not given up hope for the program. Connie Garner, who helped devise the long-term care program as an aide to Mr. Kennedy, declared: “We don’t see this program as dead. We will not let it die. “

The program’s end is a blow to middle-class hopes, though its modest benefit would have covered only about a quarter of nursing home care.

“This was designed to serve as a bridge between the affluent who can care for their own and the poor who get Medicaid,” said Diane Rowland, executive vice president of the Kaiser Family Foundation, a nonprofit group.

Raymond Eriksen of New Providence, N.J., thought he was safe. He moved his in-laws into an assisted living facility because both were suffering memory problems. Fortunately, both had private long-term care insurance that, along with the proceeds from the sale of their house, pays for their care. Then Mr. Eriksen’s wife, Linda, began to decline and was given a diagnosis of early-stage [Alzheimer’s](#).

He kept her at home until August, when caring for her became so overwhelming that he moved her into the same facility with her parents. Although long-term care insurance was offered by his employer, Mr. Eriksen had not purchased it “because we had three kids we had to put through college.” Mr. Eriksen was an electrician for a major oil company but retired four years ago because of an injury.

“So we put it off until it was too late,” he said.

He is now paying \$7,000 per month for his wife’s care, a bill that is likely to rise as her faculties decline. Mr. Eriksen, 61, said that he is unlikely to have any money left by the time he needs care himself.

“I was middle class, but I’ll be impoverished eventually,” he said.

This article has been revised to reflect the following correction:

Correction: October 25, 2011

An earlier version of this article misstated one of the conditions that Joshua M. Wiener of the RTI International research group said could have made the Class Act work. Mr. Wiener said the program might have succeeded if it had restricted enrollment to the healthy, not restricted benefits to the healthy.

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