

U.S. House Energy and Commerce Committee
Health Subcommittee Hearing
“The Implementation and Sustainability of the New, Government-Administered
Community Living Assistance Services and Supports (CLASS) Program”
Thursday, March 17, 2011, 9:30 a.m.

Members Present

- Joe Pitts (R-PA-16th) – *Subcommittee Chairman*
- Michael Burgess (R-TX-26th) – *Subcommittee Vice Chairman*
- Frank Pallone (D-NJ-6th) – *Subcommittee Ranking Member*
- Joe Barton (R-TX-6th) – *Chairman Emeritus*
- Phil Gingrey (R-GA-11th)
- John Shimkus (R-IL-19th)
- Henry Waxman (D-CA-30th) – *Committee Ranking Member*
- John Dingell (D-MI-15th)
- Bill Cassidy (R-LA-6th)
- Lois Capps (D-CA-23rd)
- Tim Murphy (R-PA-18th)
- Jan Schakowsky (D-IL-9th)
- Bob Latta (R-OH-5th)
- Anthony Weiner (D-NY-9th)
- Edolphus Towns (D-NY-10th)
- Brett Guthrie (R-KY-2nd)

Witnesses

Panel I

- The Honorable Kathy Greenlee – Assistant Secretary, Administration on Aging (AoA)

Panel II

- Allen J. Schmitz, FSA, MAAA – Principal, Consulting Actuary; Milliman, American Academy of Actuaries (AAA)
- Joseph Antos, Ph.D. – Wilson H. Taylor Scholar in Health Care and Retirement Policy, The American Enterprise Institute (AEI)
- The Honorable Mark J. Warshawsky – Member, Social Security Advisory Board; Director, Retirement Research, Towers Watson
- William Lawrence Minnix, Jr. – CEO, LeadingAge; Chair, Advance CLASS, Inc.
- Anthony (Tony) J. Young – Senior Public Policy Strategist, NISH, The AbilityOne Program

Chairman Joe Pitts Opening Statement

- The Community Living Assistance Services and Supports (CLASS) program, a government-run long-term care (LTC) insurance entitlement, was included in last year’s health reform law (the Affordable Care Act, or ACA). Since participants will have to pay into the program for five years before becoming eligible for any benefits, CBO estimates including the CLASS Act in the

ACA reduced the 10-year cost of legislation by \$70 billion. With CBO estimating that the CLASS program will begin running a deficit by 2030, and CMS' own actuaries estimating that the program will go into deficit in 2025, a taxpayer bailout may look very attractive to future Congresses.

- The concerns about this program are not limited to Republicans. In October 2009, Senators Kent Conrad, Joe Lieberman, Blanche Lincoln, Mary Landrieu, Evan Bayh, Mark Warner and Ben Nelson sent a letter to Senate Majority Leader Harry Reid, asking him to strip the CLASS Act out of the pending health reform legislation. They argued, "We have grave concerns that the real effect of the provisions would be to create a new federal entitlement with large, long-term spending increases that far exceed revenues." And Kent Conrad, Chairman of the Senate Budget Committee, called the CLASS Act "a Ponzi scheme of the first order, the kind of thing that Bernie Madoff would have been proud of."
- Most recently, on February 16, Secretary of Health and Human Services (HHS) Kathleen Sebelius testified before the Senate Finance Committee and admitted in an exchange with Senator John Thune that the CLASS Act is "totally unsustainable."
- I believe we can all agree that we do have a serious long-term care problem in this country as LTC costs are driving people into bankruptcy and weighing down the Medicaid program. We do need to address the issue, and the private sector, which already offers LTC products, must be at the center.

Vice Chairman Burgess Opening Statement

- My biggest concern with the CLASS Act is that it gives people the wrong impression of what they now have under ACA. The CLASS Act gives people the impression that the government will pick up this expense, when in fact nothing could be further from the truth. Also, it's yet another Congressional mandate placed on employers.
- Unfortunately this Committee last really debated LTC issues in 2005 and we never really got a chance to cover it during the debate of ACA.
- I have a LTC insurance policy that I bought right after I turned 50; I bought it because my mother told me to so that I wouldn't be a burden on my children.
- I believe with the CLASS Act we're taking a step in the wrong direction because we're giving people the impression that they have something that in fact they do not have.

Ranking Member Pallone Opening Statement

- I have to start out by dispelling some of the things that both of you said. First of all I'm getting very frustrated because it seems that every hearing is an effort to repeal or debunk something else in the ACA, and this is just another example of that.
- The other thing that really bothers me is I don't hear any alternatives to the CLASS Act coming from the Republicans.
- As Americans continue to age we're faced with an impending crisis in LTC, and CLASS is a new approach that will help. I know this doesn't address nursing home care, but the need for community-based care is just as important.
- The CLASS program is a voluntary, self-financed program designed to assist Americans who choose to participate to proactively prepare for their future.
- Republicans have concerns about the program's sustainability, but to them I would say that the Secretary has the tools she needs in the bill to make sure this program does not grow into a new entitlement. If anything, this program helps alleviate deficit problems.

- CBO estimated that CLASS Act could save Medicaid \$2.5 billion in the first 10 years with possible additional savings after that.
- I strongly believe that CLASS is an important step in the evolution of public policy because it's a framework based on the principles of independence, choice and empowerment.

Chairman Emeritus Barton Opening Statement

- Last April, the CMS Chief Actuary released a report entitled "Estimated Financial Effects of PPACA." He estimated that 15 years after implementation of the law, projected benefits of the law would exceed revenues.
- Sebelius said this program is totally unsustainable.
- Regardless of when it is expected to become solvent, we need to examine the program to ensure we're not creating another federal entitlement program.
- With the state of our economy being what it is right now, I think it's imperative that we reign in spending in order to protect our country's long term financial stability.

Representative Gingrey Opening Statement

- We're here today because the CLASS Act, according to the CBO, the President's own debt commission and even the Administration, is financially unsustainable.
- Quoted the President's debt commission
- CLASS Act is a new entitlement nightmare included in ACA that when it fails, could harm disabled patients.
- Senate Budget Committee Chairman Kent Conrad called CLASS "a Ponzi scheme" for the workers who are encouraged to sign up.
- The debt commission recommended that CLASS be reformed in a way that makes it credibly sustainable, and if that's not possible then they advise that it be repealed. I have not seen anything that would lead me to believe that this program is credibly sustainable, and if I'm not convinced otherwise after today's hearing, then I'll be dropping a bipartisan bill this afternoon with Rep. Boustany to repeal this program once and for all.

Representative Shimkus Opening Statement

- How in the world do we add another entitlement to the mix? How do we take five years of revenue making promises that we can't keep? This is a crazy process and I'm glad we're having this hearing.

Ranking Member Waxman Opening Statement

- This hearing is about an issue that has touched virtually everyone in this room, public and private alike. The problem has been with us for a long time and it's growing. With the aging of the Baby Boomers, the numbers are indeed quite staggering. Rather than facing the challenge, we have pushed the problem aside year after year, pledging to those in need that with just a bit more time, we would get a good program in place. If the Republicans decide they want to repeal this program, I would like to hear what they want to put in its replace.

- Almost one year ago we finally kept the promise. In creating the CLASS Act – a voluntary, self-sustaining, privately financed and beneficiary-driven effort – we set in motion a process that would allow the elderly and the disabled to be able to stay in their homes and in their communities when they are no longer able to do so independently.
- Having said that, all of us who support the CLASS Act readily agree that much work needs to be done before the program is ready to go live in 2012. That is what the two years of preparation time and Secretarial discretion and flexibility is provided for in the enacting legislation is all about. So let us get on with that task. Let us learn today about where the program is and where the program is going – and how it plans to get there. And let us be assured that the requirements of the law will, in fact, be met.

Representative Dingell Opening Statement

- Oversight is an extremely important undertaking, and this hearing will enable us to come to conclusions to what is the best thing for us to do with the CLASS Act.
- Currently, Americans who need LTC find themselves with few options, if any. Private LTC insurance is available, but options are limited.
- This legislation is not an entitlement program; it is a voluntary program. In today's hearing, we will come up with an intelligent way of making it work, and of making it acceptable in terms of the budget constraints that we have.
- Medicaid can't continue to be the only affordable LTC service available to Americans. The CLASS Act enables people to pay a part of their costs through premiums which they pay ahead of the time when they need the program. That's an extremely important difference between the CLASS Act and Medicaid.

Panel I

Kathy Greenlee Testimony

- Today, approximately 10 million Americans need long-term services and support. By 2020, it is expected that 15 million Americans will need some kind of long-term care.
- One out of six people who reach age 65 will spend more than \$100,000 on long-term care, and 22 percent of those who enter a nursing home will spend their own resources and qualify for Medicaid after virtually exhausting their savings. Unfortunately, only 8-10 percent of Americans have private long-term care insurance coverage, and new enrollment is declining while major long-term care competitors have exited the market. Taken together, this means that many Americans are not well prepared to finance the long-term services and supports they will need.
- There are a number of reasons behind the reluctance to prepare.
 - First – Misunderstanding of the available resources. Four out of five Americans mistakenly believe that Medicare provides them with extensive coverage for long-term care. And while Medicaid is the nation's primary payer for long-term care, paying approximately 50 percent of the nation's nursing home expenditures, qualifying for long-term services and supports under Medicaid requires that individuals impoverish themselves.
 - Second – Americans frequently misjudge the risk that they will need long-term services and supports.
 - Third – Many people are unaware of the costs of these kinds of services and supports.

- It isn't just individuals' budgets that are stretched by long-term care services – these costs are a key source of financial stress on public budgets. The CMS Office of the Actuary shows that in 2009, Medicaid spent \$111.2 billion on long-term care services and that spending growth on these services is projected to accelerate as the population ages, stressing both federal and state budgets.
- CLASS offers a new tool to support Americans' long-term care needs. Its goals are to create an opportunity for individuals to prepare financially for their own long-term needs, support consumer choices related to their own care and living arrangements, and facilitate independence and community living.
- President Obama and Secretary Sebelius have acknowledged that the CLASS program needs improvement. Many of the changes proposed to the Senate health reform bill that would have improved the CLASS program's financial stability were not included in the final legislation. Therefore, it was not unexpected that the President's Fiscal Commission identified these same unresolved issues in December and recommended "reform or repeal CLASS". Given the critical unmet needs of long-term care that I noted earlier, we should not repeal CLASS until we have made every effort to reform the program.
- The Secretary has the responsibility to ensure the program is fiscally sound, and the law provides her the discretion and flexibility necessary to seek that objective.
- HHS has spent the last year studying this law, the implementation options available, and the relevant actuarial and economic research in the field. These efforts are helping us chart a path forward to develop a benefit plan that achieves two goals while ensuring fiscal solvency:
 - Consumers can choose to direct their own services; and
 - There will be no medical underwriting.
- We are exploring several areas within our statutory flexibility to strengthen the CLASS program to help enrollees plan for their future while ensuring program solvency. These activities include:
 - Partnering with employers to disseminate outreach information and enroll their employees
 - Changing the employment and earnings requirements for the program
 - Closing loopholes that could allow people to skip premium payments and then re-enroll in the program without paying any penalty
 - Exploring options for indexing premiums for inflation so they would rise along with benefits
 - Tailoring benefits more closely to individual needs and preferences
 - Attracting a broad base of enrollees
 - Developing robust waste, fraud and abuse regulations and procedures
- We will pursue these all of these reforms in full public view in a transparent process. We will present three solvent benefit plans as certified by the CMS Office of the Actuary to the CLASS Independence Advisory Council. And the public at large will have an opportunity to comment on the benefit plans and the implementing regulations through notice-and-comment rulemaking.
- I look forward to working with this committee to ensure we implement the law responsibly.

Question & Answer Session: Panel I

Chairman Pitts – Some have suggested that in order to have a sustainable program, the monthly premium may have to be at least \$240 per month, or higher. When will your agency announce what the premium will be, and is it possible the premium could be as high as \$240 per month?

- Greenlee – The proposal going forward is that we will submit three plans (as recommended in the law) to the Independence Advisory Council for their submission to the Secretary. We will then publish in a regulation, most likely this fall, our initial assessment of those three plans. I do not know at this point if that initial regulation will include specific pricing information. We know

that the best way to protect the solvency of the program is to ensure high participation, and participation will be a function of many things, including the price of the premium.

- Pitts – Do you believe the Secretary has the authority to increase CLASS program premiums, and if so, on what basis and are there limitations?
- Greenlee – The Secretary was given many protections once the program is enacted in order to adjust or make changes to the premiums. She has the authority both now and after the program is enacted.
- Pitts – The President’s FY2012 budget request includes \$120 million to begin the implementation of CLASS. But Secretary Sebelius admitted that the program in its current form is “totally unsustainable.” Do you agree with her statement?
- Greenlee – We are committing to making reforms to the program so that we can make sure the program is solvent. The request for that \$120 million is because we need startup funds to implement this new program.

Vice Chairman Burgess – Do you have any idea as to when Sebelius’s realization that the CLASS Act is “totally unsustainable” occurred?

- Greenlee – During the past year, we have worked to develop two actuarial models, and each one led us to the conclusion that to protect the solvency of the program, we would have to make some changes to the program. The changes are fully described in my testimony.

Ranking Member Pallone – First I just have to say that it seems that everyone on the Republican side is just scared of having a new program. Yes, there will be some problems, but that’s what happens when you try to do something new to address something that hasn’t been addressed before. Now I just want to ask some brief questions. Some suggest that your agency (AoA) isn’t the proper place for CLASS. Why is it being housed there, how prepared do you feel you are, and did we make the right choice?

- Greenlee – The Secretary has the authority to reorganize HHS, which gives her the authority to place the CLASS Act in the AoA. This is a different kind of program than AoA has run in the past, but the connection is that we have long expertise in providing services in the community that help support independence. I also believe that I have the credentials to help make this possible.
- Pallone – Where is the administration in reviewing some of the criticisms?
- Greenlee – We’ve spent the last year analyzing the law as written. We’re going to build on that to develop solvent programs that we can take forward.
- Pallone – Lastly I have a question regarding the process by which the guidelines will be disclosed and subject to review by the relevant stakeholders – how will the agency go about publicizing the framework of the program and at the same time seeking advice from interested parties?
- Greenlee – Two primary ways: we’ll work with the CLASS Independence Advisory Council and we’ll go through the federal rulemaking process.

Vice Chairman Burgess – Your testimony is important and underscores the fact that there is a general lack of knowledge in the public about the importance of having LTC insurance. A question comes up – you mentioned the \$120 billion budget to be spent this first year in developing the program. What do you think we could have done with that money to just increase awareness of LTC insurance without having started up this new program?

- Greenlee – The private LTC insurance market has been selling for 30 years and it only reached a penetration of about 10 percent of the market.
- Burgess – If I can interject, we make it extremely hard – there is no tax deductibility for LTC insurance; you can’t pay the premium out of a Health Savings Account (HSA); these are all after-tax dollars that have to be invested. There are things we could do on the policy side absent the CLASS Act that would have made a difference in the number of participants. You talk about

wanting to crack down on fraud and abuse, and I applaud you for that. But when you look at those third party payment programs that are subject to fraud and abuse, it's Medicaid and Medicare, those public programs that seem to be so vulnerable. Why not try to partner with those people who are already out there offering LTC insurance and try to build on that? Perhaps work with policy makers to remove some of those obstacles to purchasing LTC insurance.

- Greenlee – The product that the CLASS ACT represents is different than what the private market has ever addressed. The private market has always offered comprehensive LTC insurance, so they're targeting different markets.
- Burgess – Do you think when people look at ACA and see the CLASS Act they will be more or less inclined to more seriously look into private LTC insurance should they be able to afford it, or will there be an acknowledgment that the government is taking care of it now?
- Greenlee – This is a supplemental program, not comprehensive, so the answer for an individual would depend on what they can afford. Part of the reason for the \$120 billion budget request is so we can be clear with the public that this is a supplemental, supportive program and not a comprehensive one.
- Burgess – The CLASS Act was put together in a hodgepodge way in the Senate Floor on Christmas Eve and that's why we have the problems that we have.

Ranking Member Waxman – Burgess was correct in saying that we hope people will buy LTC insurance, because otherwise they end up on Medicaid. But LTC insurance has not been a great success so far. The fed government allows people to buy LTC insurance, but only about 5 percent have purchased it. It's astounding that people are in such a state of denial about needing to buy LTC insurance. So I don't see it as the way we're going to solve the problems. This is not a replacement for private insurance; it's a supplement to LTC.

- Greenlee – I would say it as the reverse. It is the first step for a person to protect themselves, and if they want to protect themselves further then they can go to the private market.
- Waxman – Currently, Medicaid is the largest payer of LTC services and it comes at a high price. Each year we expect to add \$44 billion to Medicaid due to LTC services alone. In the 2009 CBO analysis of the CLASS Act, there are some Medicaid savings that come to \$2.5 billion in the last two years. Do you believe this program has the potential to save even more Medicaid dollars?
- Greenlee – Yes I do, and in two primary ways: People who receive both CLASS and Medicaid will pay a portion of that back to the state for Medicaid; and even more importantly, CLASS can help people prevent spend-out to Medicaid and use their own resources.
- Waxman – Looking at the potential problems down the road, we can do one of two things: require people to buy private LTC or we could say that everyone should pay into a fund.

Representative Shimkus – Don't take my questions as being harsh or accusative, but we have a few issues here. You're hiring an actuary and promising this will maintain solvency. If it goes out of solvency then the actuary will have to decide to do one of two things: raise revenue or cut benefits. Is the Secretary willing to raise revenue or cut benefits if the bill is not maintaining solvency once it's implemented?

- Greenlee – The Secretary is only willing to move forward to implement the law if we can demonstrate that it will remain solvent. So we won't even start the program unless we think it's solvent. Under law, the CMS actuary has to certify for 25 and 75 years that the program is solvent. Thereafter, the Secretary and the Board of Trustees have the ongoing fiscal oversight and the authority to make changes as necessary.
- Shimkus – Ok well I hope we'll have the AoA back numerous times to review the numbers and make sure the law is maintaining solvency.

Representative Dingell – Ten million Americans are in need of LTC services now. There are a number of LTC insurers in the U.S. that are planning to leave the market. This seems to offer people much more limited options. The goal of CLASS is to allow Americans to participate in a choice that allows them to remain in the community rather than going into a nursing home. So it will allow an individual to buy into this program at an early time, which is a conventional insurance practice. That will absolve Medicaid of providing these same benefits in nursing homes, correct?

- Greenlee – It will help buffer the costs by helping the individuals stay home.
- Dingell – Instead of the taxpayer paying 100 percent on Medicaid, the individual who derives benefits of CLASS will be paying into CLASS. AARP says that the CLASS Act will save about \$2 billion to Medicaid. As you said in your testimony, Medicaid now pays for about 50 percent of the nation’s nursing home expenditures. Is it probable that by offering the CLASS Act, it will help Medicaid to reduce its costs and also reduce nursing home costs?
- Greenlee – Yes it will help people use their own resources and the recourses of the CLASS program to postpone the need for Medicaid.

Representative Cassidy – I am a physician who works at a public hospital, so I am very familiar with politicians overpromising and underfunding. The Democrats’ argument for an individual mandate is that if you don’t force people to be enroll in an insurance program, only those who are the sickest will take the policies, and it enters the “death spiral.” You by law are mandated to keep the CLASS Act actuarially sound for 75 years. Let’s assume the logic is correct that we’ll enter into a situation where only those who will benefit wish to enroll, and those who don’t see it in their financial interest to do so choose not to join. Now you have to make the premiums effective. So it seems to me if there is this adverse selection, progressively you will have to raise the premiums so much so that you will enter the “death spiral.”

- Greenlee – We are committed to the solvency of the program and the key will be broad participation.
- Cassidy – Is it potentially true that a lot of non-working spouses could participate and that people over age 65 cannot have their premium adjusted upwards, both of which would raise the premiums on the younger, working class?
- Greenlee – All of the actuaries we work with understand that a fundament principal of insurance is broad participation. We have looked at different pricing mechanisms and looked at what a similar product looks like in the marketplace, and we know that in order to get broad participation we must be competitive. I also want to point out that non-working spouses are not eligible for this program.

Representative Capps – This hearing is yet another in a long line obsessed with repealing the ACA. I will continue to ask for a hearing on the number one issue to our constituents, which is jobs. I also find it concerning that while Republicans declare CLASS unsustainable, actually they should be taking credit for the flexibility that will be the key to ensuring its success. There is a *Politico* article today that describes how the CLASS program flexibility came to be. It was an amendment that was offered by then-Senator Judd Gregg and it was accepted unanimously by the Senate HELP Committee. After it was passed, Senator Gregg said his amendment ensures that the program will be fiscally solvent and we will not be passing the buck to future generations. Do you agree with Senator Gregg’s assessment?

- Greenlee – As I understand it, in response to Senator Gregg’s concerns, the 75 year requirement was placed into the law so that we would look long-term. And we’re required to look long-term from the very beginning before we ever start the program.
- Capps – The overall issue should be one that we can agree on: the current LTC insurance system is virtually non-existent. Two weeks ago, this Committee heard how expensive Medicaid is, both to the federal government and to the states. This is particularly true in regards to LTC. But right now, what other option is there for most Americans? How does the CLASS program benefit individuals, especially family caregivers?

- Greenlee – One of the ways it helps is by providing the family members themselves with cash benefits so that they can purchase assistance and respite care.
- Capps – There’s a notion that CLASS won’t work because there’s no room for it because there is already a private market, and the market is limited because people must not want LTC insurance. Yet this fails to take into consideration that government programs often spur private markets. How do you see CLASS impacting the private LTC market?
- Greenlee – The private market has been around for about 30 years, beginning with comprehensive nursing home insurance, but nothing like the CLASS system has ever existed in the private market, so these are complementary but different markets, so I think there is plenty of room and need for both to exist.

Representative Murphy – Good intentions do not necessarily always lead to good laws. With regard to the ACA, the latest CBO and JCT estimates are that for the first decade of the ACA, it would cause a net increase in federal deficits of \$210 billion for the period between 2012 and 2021. Last March the CBO and JCT estimated that ACA would actually reduce deficits, so we’re off here by almost \$300 billion in those estimates. CBO and JCT also note that the repeal of CLASS Act provisions would increase the federal deficit by \$86 billion, meaning that money was counted as part to pay the bills for the ACA. For the first five years the revenue would be collected by people on a voluntary basis as long as they don’t opt-out. Secretary Sebelius recently acknowledged that ACA, by borrowing \$500 billion from Medicare, really was double-counting. So I’m going to ask a similar question here: this money going to help offset the cost of ACA, is it also double-counted?

- Greenlee – I’m aware of the CBO budgeting process but my responsibility is to help advise how we make this particular program solvent. My understanding is that in the CLASS Act there would be money coming in for the first five years, and that money also is being counted to help pay for ACA.
- Murphy – Don’t we have to pay back that money to help cover the CLASS Act since it is being double-counted? I’m assuming you’ll want that \$80 billion back in order to cover the benefits.
- Greenlee – Certainly we’ll only move the program forward if we have modeling indicating that we will have enough premiums to collect to cover the benefits.
- Murphy – I’m trying to help you out because you’ll have a very difficult job. If \$80 billion is taken out to pay for ACA and you still need that \$80 billion to pay for your benefits, the question is, where will that money come from?
- Greenlee – To me, this question is a difference between the budget methodology and the financial accounting that we need to do in order to run a solvent program.

Representative Schakowsky – Representative Murphy just described exactly what is currently in the private insurance market – that kind of uncertainty – and I have confidence that the CLASS Act will address that problem. I have been working on issue of LTC since I was in the State legislature, starting in 1991. The issue of the cost of LTC, not just for people with disabilities but for many families facing this prospect of not being able to have the care they need, is important. I want to put into the record the National Council on Aging’s “Top 10 Reasons Why Conservatives Should Love the CLASS Program.” I want to go over a few of them and I welcome your comments. Number one says that CLASS provides flexibility to ensure fiscal solvency for 75 years. Do you want to comment?

- Greenlee – The Secretary has the responsibility to guarantee solvency. The amendment by Senator Gregg gives us the guideposts that we must make sure this is solvent in the long-run.
- Schakowsky – Two says no federal tax funds will be used to pay benefits.
- Greenlee – Correct. The premiums have to cover the benefits.
- Schakowsky – Three, the CLASS Act has no mandates. It’s optional for both employers and consumers.
- Greenlee – Correct.

- Schakowsky – CLASS will increase business productivity by reducing caregiver absenteeism and permitting people with disabilities to work.
- Greenlee – As you know, the main purpose of the law is to provide cash to an individual who needs assistance. There is a parallel there for additional support for the caregivers who provide assistance.
- Schakowsky – Americans across party lines strongly support CLASS. A Kaiser Family Foundation (KFF) poll in February found that 74 percent of Americans support the program. When France implemented a similar proposal, sales of private plans increased annually by 15 percent, largely because the public debate increased awareness of the importance of LTC.
- Greenlee – One of the major issues we need to address, and that is included in the budget, is to market to the American public the problem that there is a need for LTC insurance.
- Schakowsky – CLASS will reduce the federal deficit by \$86 billion over the next decade.
- Greenlee – Yes, that was the CBO score.

Representative Latta – Secretary Sebelius stated that the CLASS program won't start unless we can be absolutely certain that it is solvent and self-sustaining into the future. What exactly is the \$120 million startup budget request for?

- Greenlee – \$93.5 million will be for education and outreach efforts both to inform the public of the new program as well as the larger issue of the need for LTC; other two costs are for administration and IT.
- Latta – If we have something that might not work in its present form, why are we requesting money to market it and educate the public about it?
- Greenlee – We have spent the year since the law was adopted analyzing actuarial data so that we can make the necessary changes before it is marketed and implemented. We should tell the American people that this program will be solvent because we won't start it unless it is.

Representative Weiner – This morning I woke up to a call from my brother who told me that my mom who is 75 years old had to go to the doctor because she fell. My brother and I have to figure out how to deal with our jobs and care for our mom. There is nothing remarkable about this story – every day, people are trying to figure out how to deal with this increasingly healthier, longer living population. Republicans continually say that if you just give people money back and let them decide the smart way to spend it, that's the smart way to structure a program. That's what the CLASS Act did, using a Republican model and flexibility that they demanded, but now here they are saying it's a bad program. It's not a partisan thing about whether your loved one gets sick. I believe in a single payer system like Medicare that covers things like this. Republican say they instead believe in a private model. Now we have come up with the CLASS Act and Republicans say they don't like it, but they don't have a different idea. For 99 percent of the American public, they see politics as white noise in the background. They just want to tune in every once in a while when it is a matter that affects them. We have to return to the place where we try to solve problems instead of constantly trying to deconstruct the solutions that others have come up with. (Ended the fiery speech and received applause from the audience.)

Representative Gingrey – Representative Weiner made a comment that Republicans are against Medicare and Medicaid, but that is absolutely not true; we truly believe in the importance of these safety net programs that we have, but we also firmly believe that we need to pay for these programs. I understand that the CLASS Act has great merit and some potential. But clearly this double-counting issue is the kind of thing that has been wrecking this country and pushing us towards bankruptcy. I wish this bill was a stand-alone provision that we could really vet and make sure before we start it that it was not just another situation where you have the big federal government raiding the trust funds. My numbers say that the CBO found something like \$39 billion in Obamacare would be paid for the total net savings in the CLASS Act. Why would the CBO count that money toward paying for Obamacare, and yet when

you cite the importance of raising that money early before this program goes into effect, where will that money come from when it's needed for the seniors?

- Greenlee – Here's how I believe the program will operate. The money will be collected for five years before the money is paid back out. We will make sure that the accounting works and we will continue to be involved and follow up with you if there is something that needs to be addressed.
- Gingrey – Do you think it's fair for the Administration to take money that has been put into the CLASS Act trust fund and use it as part of the CBO score to make the Obamacare numbers work?
- Greenlee – I just don't have a comment on that.
- Gingrey – Secretary Sebelius stated that she has the regulatory authority to make changes to the CLASS Act. Do you believe that under that authority, she has the ability to increase the CLASS program's income eligibility standards?
- Greenlee – Yes.

Representative Towns – Nursing home care is extremely expensive when paid for by Medicaid. Taxpayers are spending over \$200 per person per day on these expenditures. We need to be looking for ways to alleviate these issues. Programs like CLASS can pose one solution, as long as we work together to make sure that it remains financially sound. What is HHS doing to insure the fiscal soundness of this program?

- Greenlee – Since ACA was passed one year ago, we have been involved in putting together two different actuarial models so that we can check them against each other. It's from those models that we have come to the conclusion that we need to make some changes to the program. We will now move forward using the new assumptions so that we can develop the plans that we need to prepare the presentation to the Advisory Council and to the Secretary, and all of that will be a very transparent process.
- Towns – You mentioned that many of the changes proposed to ACA that would have improved the CLASS program were not included in the financial legislation. Can you give me a few examples?
- Greenlee – Indexing of the premiums was one example.
- Towns – We're getting a lot of criticism from the other side, and it bothers me because I'm not getting any suggestions or ideas from them. This is a very serious issue and I'm not sure that it's being treated in a very serious manner.
- Weiner – The fact is that “repeal and replace” is fiction, because all they have is “repeal.”
- Burgess – The solution is the hearing we're having today. When we marked the bill up in the middle of the night we were promised this hearing, but we didn't get it before the bill was passed.

Representative Guthrie – We are concerned that people have issues when they're older and we need to prepare financially for that. When something passes and the Secretary says it's not solvent, I think it would be irresponsible for us not to sit down and ask these questions. On the premium, it will be self-sustaining, correct?

- Greenlee – Yes.
- Guthrie – If a business does not auto-enroll, will there be an alternative process to enroll individuals?
- Greenlee – The key here is that both employers and individuals have a choice. The law already describes the process for employers, and we also need to come up with an alternative mechanism for individuals. We are seriously interested in engaging the business community about what would work for them.

Panel II

Allen Schmitz Testimony

- I am here on behalf of the American Academy of Actuaries. A joint task force of the Academy and Society of Actuaries published an analysis of the CLASS Act legislation in 2009, which modeled an earlier version of the program. Based on that analysis, it was concluded that the program would not be sustainable in the long term and that it would be unlikely to cover more than a small proportion of the intended population. Those same concerns persist with the CLASS program enacted as part of ACA.
- The CLASS program is a voluntary, guaranteed issue, employment-based program. It's important to note that the CLASS program is required to be actuarially sound over a 75-year period with no support from taxpayers.
- The actuarially sound requirement will be very difficult to achieve under the current program design. A primary concern is the considerable potential for adverse selection in this program. Without addressing many of the issues I will outline, the program is unsustainable in the long term.
- An effective, actuarially sound public LTC program will limit the effect of adverse selection. This is critical with a voluntary program in which participants may opt in and/or out – those individuals with greater need for LTC coverage are more likely to opt in, while individuals without that need are more likely to opt out. This adverse selection increases the average insured risk and results in higher average premiums, which in turn may lead to less participation from healthy individuals and even more adverse selection. The process may continue and spiral.
- Important provisions in the CLASS Act that affect adverse selection include:
 - Guaranteed issue with a weak actively-at-work requirement;
 - Opt-out and opt-in provisions that allow participants to delay coverage until it is needed;
 - Premium subsidies requiring a premium of only \$5 per month for students and those below the poverty line;
 - A waiting period that is not long enough to effectively control adverse selection;
 - Rate increase limitations for those who are older than age 65; and
 - Benefit design features, such as cash benefits and unlimited lifetime maximums that have been and continue to be problematic in the private LTC insurance market because they are susceptible to induced demand and may drive higher premiums and lower program participation.
- There has been significant focus on participation levels as a critical yardstick in measuring the viability and success of the program. While higher participation generally does make it easier to obtain a reasonable spread of risk necessary to sustain the program, it should be made clear that it is the mix of individuals with different risk characteristics enrolled in the program at any one time, and not participation alone, that is the key to long-term sustainability. High participation from only higher-risk individuals will threaten the program.
- Key factors influencing participation:
 - Affordability – Premium levels must be affordable, competitive with what is available in the private LTC insurance market, and of good value to consumers. But the CLASS program design includes features that increase adverse selection and result in relatively unaffordable premiums.
 - Marketing – A strong marketing program would increase participation and aid in obtaining a reasonable spread of risk. Additionally, it would encourage individuals to plan for their future LTC needs – and getting people to plan could help reduce pressure on the government, which currently pays for a majority of LTC.

- A sustainable voluntary program will have provisions to address many of the adverse selection concerns I have outlined. On behalf of the Academy, I offer the following recommendations for modifying the CLASS program:
 - An actively-at-work definition with a minimum requirement of 20 to 30 hours of scheduled work or a comparable requirement;
 - Restrictions on the ability to opt out and subsequently opt in with the use of either a long second waiting period for benefits or an alternative underwriting mechanism;
 - The use of a benefit elimination period or duration limits;
 - Benefits that are paid on a reimbursement rather than cash basis; and
 - An initial premium structure that provides for scheduled premium increases for active enrollees at either a consumer price index or alternative rate.
- These modifications, along with an effective marketing effort, will improve the sustainability of this voluntary LTC program.

Joseph Antos Testimony

- CLASS is a new federal LTC program that is financed solely through enrollee premiums. Because the program collects premiums in advance of benefit payments, CLASS reduces the budget deficit in the near term. Over the longer term, CLASS increases the deficit and worsens the fiscal crisis we are already facing due to the mounting costs of Medicare, Medicaid and Social Security.
- The goals of CLASS are laudable. Persons with functional limitations need assistance if they are to remain in their communities. CLASS would provide a cash benefit that could help those individuals purchase a variety of non-medical services and supports, such as personal assistance services, housing modifications and transportation. That could relieve the burden on families and delay the need for institutionalization.
- But few people will benefit unless the program is attractive to a broad population who can share the cost and keep premiums affordable. Instead, CLASS will primarily enroll an older and sicker population who will take full advantage of the benefit. This adverse selection will create a death spiral of rising premiums and declining participation that will doom the program as it is now structured.
- The technical defects in CLASS arise from the intention to make LTC benefits readily available, including to people who already have disabilities but are still able to work. Underwriting is prohibited, and enrollees of the same age are charged the same premium regardless of their health or disability status. Low income individuals would pay a \$5 monthly premium; consequently, premiums for others would be high to begin with and grow rapidly as healthier people drop out of the program. Automatic enrollment in the work requirement would have very little impact on this situation.
- Premiums are hard to predict. CBO estimates that the average monthly premium would be \$123 for benefits of \$75 per day. The chief actuary of CMS estimates that an average premium level of about \$240 per month would be required to adequately fund the CLASS program. Those estimates compare to private premiums that average \$184 for a daily benefit that is likely to be somewhat larger than \$150.
- With high class premiums and better deals elsewhere, it is not surprising that participation is estimated to be 2 to 3.5 percent of the market. It will soon become obvious to many workers that prompt enrollment in CLASS is not in their best interest.
- Ironically, this problem is exacerbated by the requirement that premiums be set to ensure solvency over 75 years. That guarantees steep price hikes as the mix of enrollees shifts toward those with greater health risk.

- CBO estimates that the program will generate budget deficits during its third decade of operation, while the CMS chief actuary projects deficits starting in 2025. This seems to contradict one of the key protections built into the law.
- ACA establishes a trust fund known as the CLASS Independence Fund that will receive premium payments and disperse benefit amounts, in the same way that Medicare's Supplementary Medical Insurance Trust Fund operates. Surpluses that accumulate in the Fund are invested in nonmarketable Treasury securities – essentially IOUs that obligate Treasury to find funds to cover the operation of CLASS when premiums no longer cover expenses.
- That money does not sit idle in a bank account. Instead, Treasury uses the Fund's surpluses to finance other ongoing operations of the federal government. Although premiums would be set to maintain a positive Fund balance for 75 years, that balance includes the excess premiums from the first few years that were in fact spent, and it includes imputed interest on Treasury securities that is not in fact new money.
- Secretary Sebelius has indicated that the administration is considering making some changes to the CLASS program. There is no guarantee that such adjustments would resolve the financial instability that is built into the program. Repeal is the only logical alternative. It is far better to repeal a defective program than to let it repeal itself through financial failure.

Mark Warshawsky Testimony

- In my statement I plan to set forth a framework that could be used by employers in deciding whether or not to participate in the CLASS program.
- First, however, it will be helpful to review some statistics about current offerings of private LTC insurance by employers to workers. According to the Benefits Data Source of Towers Watson, as of 2010, about 50 percent of large employers offer but do not subsidize LTC insurance to their workers; another 4 percent provide such insurance with either a partial or full subsidy to workers. The fact that the vast majority of employers either do not subsidize or even offer LTC insurance to their workers, despite a tax advantage to the worker from any employer subsidy, reflects that this insurance is considered a convenience benefit for employers. That is, LTC insurance is not a core benefit plan nor is it generally thought to provide a significant business advantage to the employer in offering it, beyond good will and convenience to employees.
- Experience to date with take-up by employees in employer-offered LTC insurance plans has been quite modest. Even in large organizations with well-paid and well-informed employees for whom Medicaid is unlikely to be thought a source of LTC coverage, take-up rates have not exceeded 5 or 6 percent. This is despite the fact that employer-offered policies have the advantage over commercial individual policies that little or no underwriting is done in the workplace.
- For my purposes here, it is important to note that the legislation provides that workers can be enrolled in the program via one of two methods. Employers who decide to participate in the program would automatically enroll their workers, through payroll deduction, with workers having the right to opt out; such automatic enrollment is now common in many 401(k) plans. Self-employed workers and those whose employers do not participate in the program could join through an individual enrollment mechanism to be established by the federal government. According to my understanding of the language of the law, employers could only participate in the program if they agree to automatically enroll their employees. Also, according to my understanding of the legislative expectations for the program and the score given to the program by the CBO as part of the broader health reform legislation, it is thought that most of the enrollment in the program (projected by the CBO to be 6 percent of the nation's working population in 2019) will be through employers.
- And now to discuss a framework for employer choice to participate in the program.

- An important overall consideration for employers is whether HHS, as the primary administrator of the program, will aggressively promote the need for, and the benefits of, LTC insurance, directly with workers. For example, will HHS, within the legislative restrictions on marketing expenses by the program, or others put forward clever and effective advertising campaigns directed to the public? Absent such promotions, many employers, even those currently offering LTC insurance, are unlikely to want to participate in an automatic enrollment program when the vast majority of workers are likely to opt-out.
- Employers will compare the benefits and premiums and administration for the federal program with those available in the private sector. This will be an intensely facts and circumstances evaluation and it is idle to speculate now on how it will come out. But it is worth noting that there are two structural considerations now known – one favoring the government program and one favoring private LTC insurance. The government program will pay cash benefits that can be used for any purpose, even to pay family members for care, for the lifetime of the beneficiary. The level of benefits contemplated in the government program – \$50 to \$75 per day – is unlikely to cover the actual cost of care for many disabilities. On the other hand, policy parameters in private insurance can be selected to meet the expected costs appropriate to the region of the country and level of care desired by the insured.
- Conclusion – the CLASS program for voluntary LTC insurance sold by the federal government to workers is scheduled to come on-line by October 2012. Employers will need to assess at that time whether to offer this program to their workers on an automatic enrollment basis. It is worth noting that employers must make this choice at the same time that other consequential change in the health care insurance and provision marketplace is occurring as the larger health care reform plan is being implemented.

William Minnix Testimony

- LTC is something most families will face, and no one wants to talk about it. It is potentially the biggest financial risk of family life and yet none of us wants to think that someday we may need help with the simplest activities of daily life.
- We all need the CLASS plan. Disabling conditions are no respecter of age, socioeconomic status, living venue, background or genetics.
- The CLASS plan promotes personal responsibility, puts choice in the hands of consumers and doesn't rely on taxpayer funds. CLASS is totally voluntary, and its cash benefit approach allows consumers to choose the type of help they want.
- CLASS helps taxpayers. The law says there can be no tax dollars paid out for benefits. It is a financially self-sufficient program. The CLASS plan also is important to employers, including small businesses. MetLife estimated the cost of lost productivity for employees who must take time off for family caregiving to be \$17 billion annually. CLASS can help those employed family caregivers hire needed help for those for whom they are responsible, easing stress and reducing the caregivers' own health problems, reducing the cost of their employer-sponsored health care.
- The biggest unknown about CLASS is that no one can be sure how many people will sign up the day it is offered and how rapidly the pool will grow based on how popular it will become based on public perception of benefit and protection. So, plan design, communication and public education are now critical to encourage working people to sign up for the program.
- Conclusion – the CLASS plan fills a serious and growing gap in the resources available to individuals and families to protect against the substantial cost of LTC services and supports. Numerous surveys and focus groups have found that many Americans do realize that total LTC supports and services are not fully covered. The discussions around the implementation of

CLASS, including this hearing, will further increase public awareness of the need for effective planning and personal responsibility.

- So, those of us passionate about it believe that our next great step and responsibility is to educate the American public on a need that many already know they have. Certainly there are risks to any change or new initiative. In the case of the CLASS program, we believe the risks are small relative to the great good that can be achieved. And the risk of the status quo is predictable, unacceptable and catastrophic.

Anthony Young Testimony

- I am a Senior Public Policy Strategist with NISH, which is one of the two Central Nonprofit Agencies designated by the Committee for Purchase from People Who Are Blind or Severely Disabled, an independent federal agency, to help the Committee to administer the AbilityOne program. I work with AbilityOne, which helps thousands of people who are blind or have severe disabilities find employment. In Fiscal Year 2009, the program helped over 47,000 people obtain employment.
- The national voluntary CLASS program can help individuals and their families manage the impact when a sudden, unexpected event results in a lifelong need for assistance with basic human functions. Such an event can happen to anyone. Many try to rely on their own resources; however, unless they are extremely wealthy, they will not be prepared for the financial costs.
- That is why I'm here today. My experience demonstrates the need for CLASS. I was 18 when I sustained my disability while body surfing. I went from being very active in sports and having near total independence to near total dependence in the crunch of a C-4 vertebra.
- After 10 months of medical and physical rehabilitation I was sent home to live with my parents. There was no information available on how or where to get help. My parents managed all of my personal care needs while working full time. We were fortunate enough to have good health insurance at that time, so medical bills did not bankrupt our family. This continued for nearly three years.
- Slowly we discovered that some services were available. I received home visits from a local nurse service. These services helped to relieve some of the personal care burdens on my family, but it soon became apparent that I needed more flexible and responsive supports.
- There are three things I would like you to keep in mind:
 - I am one of the fortunate few. I was not forced to live in a nursing home nor become impoverished in order to be eligible for Medicaid and obtain the vital LTC supports and services I need.
 - The CLASS program is a huge step forward for the nation. Had someone like me had CLASS coverage prior to such an unexpected and life-changing accident, my family and I would have had some security that the personal assistance and LTC I needed would be available to me.
 - When a person is born with a disability, acquires one through an accident, or develops disabilities later in life, that person does not automatically trigger CLASS benefits. An individual must first meet a threshold of functional limitations. Also, individuals must continue to pay premiums while receiving benefits.
- I know that some of you have concerns over the solvency of the program. Believe me, I want and need CLASS to be solvent, too. Secretary Sebelius has the authority to ensure that the program is solvent for 75 years. She has announced important steps to ensure that sustainability by addressing minimum earnings levels, adjusting premium levels to account for inflation, and strengthening waste, fraud and abuse loopholes that might threaten the program. These reforms

are important to the program and I believe that the Secretary must be given the time to make these and other changes to strengthen the CLASS program.

Question & Answer Session: Panel II

Chairman Pitts – Dr. Antos, during Congressional debate on health care reform we heard bipartisan concerns with the structure of the CLASS program. Could you please explain the budget gimmick that was used to claim program savings, even though by most accounts this program will significantly add to the nation's deficit?

- Antos – It is a time honored tradition in Congress to use this technique, so I wouldn't necessarily call it a gimmick. The fact is that the premiums will be collected for the first five years before any benefits are paid, and there is a five year vesting period, so that means that even after 2017 or 2018, there will still be premiums coming in from an individual before there is any possibility that they could draw down benefits. This idea of collecting money in advance and putting it in a trust fund is a well known political concept, but it has nothing to do with budget rules. Trust funds are a separate kind of accounting mechanism. In the normal course of that, while this trust fund will accumulate balances, that money is immediately dispersed to finance other government operations. And eventually when money needs to be drawn on that trust fund, the Treasury has to go to its usual sources to find the money, which is generally deficit financing.

Chairman Pitts – Schmitz, one of the challenges of LTC insurance and health insurance is adverse selection. The American Academy of Actuaries' analysis noted that the CLASS program in its current form has the potential for adverse selection. Could you speak to the potential magnitude of that selection?

- Schmitz – The adverse selection that's potentially in the CLASS program is driven by a number of things. It is going to be a voluntary program on a guaranteed issue basis. To make a voluntary program work, you have to adhere to actuarial risk classification principles. The way it is currently designed, the risk classification principles will not be followed because you'll have unhealthy individuals who will be more likely to join the program. So you end up with a situation not just because of initial selection, but also throughout the program as healthy individuals decide to leave. Also, in order to try to make this program work, there will have to be significant marketing to get the participation from healthy individuals. There's also a concern in terms of adverse selection as to what's available in private LTC. Right now the way CLASS is structured, there's not a good way to supplement it, so the private market will end up competing with CLASS.

Ranking Member Pallone – Minnix, you pointed out that there are a lot of things that people pay out of pocket that aren't covered right now. Explain to us why we need CLASS; what's wrong with Medicare; what are the limitations with Medicaid; what's wrong with a mix-and-match approach to the problem.

- Minnix – Medicare covers acute and some post-acute needs on a limited basis, but it doesn't cover someone to come in inexpensively to help you get bathed and dressed or to monitor your medications. And for Medicaid benefits it can take a long time to get off the waiting list to receive such benefits as community-based services. Regular people patch it together and pool their money if they can. CLASS comes in beautifully to look at that need. One of the things that we've found is that young people have seen this in their own families, and one of the issues we think will help in the marketplace is younger people because what they've seen these problems in their families, and it will make them willing to buy into the CLASS program. So we're excited about the opportunity to educate people so that they get into the program early.

- Pallone – So in terms of who the program targets, the funding mechanism, the benefits package, and the things you think we need to do, do you think the program is designed to achieve the goals and deal with some of the problems you’ve spoken about?
- Minnix – I think that the law provides a very good framework and now what we need to do is see a final plan.

Ranking Member Pallone – Young, would you describe how the program could benefit your family?

- Young – The cost of LTC services and supports goes well beyond what we pay out of pocket. I pay \$17,000 per year now for about 18 hours of services per week. All the rest of the support that I need – grocery shopping, laundry, hanging out with my six-year-old son – falls on my wife, who also has a full-time job. For our purposes, a little extra would give us an opportunity to bring in that much more assistance that would ease her burden.

Vice Chairman Burgess – Dr. Antos, you described the “death spiral” of increasing premiums and decreasing benefits. What happens if you move too far out along that timeline? Will the Secretary have any ability to modify the program, as you understand it, if that scenario develops?

- Antos – I think the prudent thing would be for the Secretary, if she has authority, to make the changes now. I think there’s considerable doubt about how much authority she does have to make changes, and many of those changes would move in a direction that I believe people who are looking forward to the benefits in this program would find very unfavorable to them. The fact is they have to follow through on what they said, which is they won’t start the program unless it’s fiscally sound. I believe that the basic structure of the program is so fundamentally flawed that the Secretary does not have the authority to make such dramatic changes, and it will have to come back here.
- Burgess – When we had the initial exposure to the CLASS Act concept when Mr. Pallone brought it to us when we were marking up the health care law, I recall that the premium was set at \$50 per month and the benefit was \$50 per day. I get the impression that it has morphed a little bit since then. Can you give us further insight as to what the likely premium will be?
- Antos – There’s nothing in the law that says what the premium must be. The thing that is specified is what the minimum benefit must be, and that’s \$50 per day. Beyond that it’s a matter of actuarial science and guesswork. I think the key point is there’s a huge difference of opinion between CBO and the chief actuary of CMS, which tells you how fundamentally uncertain this whole thing is.
- Schmitz – I think that the current design is structured such that the premiums will be difficult to price. Because of the lack of risk classification and the rich benefits, this plan is a cash plan, and cash is a very expensive way to pay LTC insurance benefits. People claim earlier and claim more often. You also have lifetime benefits in this plan, and there is significant adverse selection experienced in lifetime benefit plans. So you have these very expensive features that all need to be taken into account when pricing this program, and it is a very difficult task.
- Burgess – Do you think it is possible that the premium in the program as it is currently designed could increase?
- Schmitz – There’s a risk of them not pricing this right away. It’s so important to take into consideration all of these things right away, because if you don’t then we will start in a hole.

Ranking Member Emeritus Dingell – Mr. Minnix, you noted that the CLASS Act will be of assistance to employers, particularly small businesses, and said that MetLife estimated the cost of lost activity for employees to be \$17 billion annually. I gather this is in good part due to employees having to take time off to care for older relatives.

- Minnix – Correct.

- Dingell – Now on the other hand, Mr. Warshawsky, you noted that the vast majority of employers do not subsidize or even offer LTC insurance, partly due to the fact that they don't see offering such insurance as providing a significant business advantage.
- Warshawsky – Correct.
- Dingell – You both discuss the impacts of CLASS Act for employers. I have too often heard from adult constituents about the financial difficulties of trying to care for older relatives, often while having to raise children of their own. Is it true that the CLASS Act allows for payments to adult caregivers that would help offset the costs of the care they are providing?
- Minnix – Yes.
- Warshawsky – Yes.
- Dingell – By hiring these home care assistants to help with the daily care of older relatives wouldn't this help to reduce absenteeism in the workplace?
- Minnix – Yes
- Warshawsky – Not to a significant amount.
- Dingell – Do you believe the CLASS Act would therefore help employers to see greater productivity in their workforce?
- Minnix – Yes.
- Warshawsky – No.
- Dingell – Is it not true that a more productive workforce would be a business advantage for employers?
- Minnix – Yes.
- Warshawsky – Yes.
- Dingell – We've looked at the cost of this to government, but we pay for health care for our people out of a lot of different pockets. In Medicaid we pay for health care, particularly in the area of LTC, and this is an enormous cost for taxpayers. In that program there is virtually no contribution made by the person who receives the help. But with the CLASS program, we would find that it would allow people to pay into the program. Would this not then ease somewhat the burden on Medicaid, which pays a huge amount of costs and largely pays the cost for institutional care as opposed to homecare? Won't this help somewhat with regard to the cost to Medicaid?
- Warshawsky – It's very unlikely that lower or moderate income workers will purchase LTC insurance because of the availability of Medicaid.
- Minnix – I have the opposite view.

Representative Cassidy – Mr. Schmitz, Democrats kept saying how this is a solution, but I think what I'm hearing is that if by statute they have to make it work, meaning they have to increase the premiums so that it's actuarially sound, that the way you write how “based upon this analysis it was concluded that the program would not be sustainable in the long term, and it is unlikely to cover more than a small proportion of the intended population”, that said, it also seems as if it would cover even a smaller portion if there is adverse selection. Can we imagine what would be the uptake of an insurance product that the monthly premiums are \$240 for a benefit that would be accrued when you are 30 years older?

- Schmitz – The way the program is currently structured is those higher premium levels will likely have very low participation. The way the program is structured right now will make it very expensive.

Representative Schakowsky – First of all I have to question the intention of this hearing. I think this is just another effort to try to set up a panel that, aside from Mr. Minnix and Mr. Young, tries to discredit this program. I would be happy to sit down with actuaries and experts to design a real program if you don't like this, but that's not what we're talking about. This is an effort to discredit a program that we think could help people. Mr. Young, you used to get federal support, but you aren't anymore; you're

working, paying taxes and contributing. So explain to us how the CLASS Act will this help people go to work as opposed to even have to get LTC.

- Young – If you can't get out of bed in the morning and don't have supports for basic needs, you can't work because you're worried about basic survival.
- Schakowsky – So this kind of program could actually turn more people into taxpayers as opposed to tax eaters.
- Young – Exactly.
- Schakowsky – Mr. Minnix, this notion of this tiny number of people that is projected to get this kind of insurance I think first assumes that people would rather spend down into total poverty in order to get on to Medicaid as opposed to taking care of themselves. But as you said, it will take an education program. Why do you think there will be more than this miniscule number that some are projecting that will actually enroll in this program?
- Minnix – I've been serving people in this field for 38 years and I've seen a little bit of everything, and one of the things I see over and over again is first of all, families' willingness to bear responsibility for their loved ones, and secondly, they begin to run out of money doing it. The sandwich generation in the middle begins to ask themselves if they should help their children or their older relatives. The work we've done says that the American public is ready to look at this issue.

Representative Gingrey – I'm going to read from the National Commission on Reponsibility Reofmr's December 2010 report in regards to what they say about the CLASS Act. Dr. Antos, have you seen the CRS memo that I submitted for the record? It states that the Secretary does not have the authority to change income eligibility.

- Antos – Yes, I have looked at it. I'm merely an economist, not a lawyer, so I'm not really qualified to opine on this, but I believe CRS has experts in the law who can make this judgment. If in fact this is the case, then it seems unlikely to me that this program can be put on an actuarially sound basis.
- Gingrey – If your opinion is what I understand it to be, that the Secretary does not have the authority to make those necessary changes, do you think we should repeal it as the President's Commission recommended?
- Antos – I think we should deal with the problem. That's the problem with this law – it doesn't deal with the actual problem. This CLASS Act really doesn't address it, and to have a program that will fail with certainty is a disservice to the disabled community.
- Gingrey – Mr. Schmitz, under the law, any individual whose income does not exceed the poverty line, and any individual who is under age 22, is actively employed and is a fulltime student will pay a nominal premium beginning at \$5. What do you believe will happen to the program's sustainability if more low-income individuals enroll at the \$5 premium subsidy than is actually projected in the bill?
- Schmitz – If that happens, it will be the other individuals who will have to subsidize them, and their premium rates will have to be higher. It will be important to try to estimate those numbers, and that's one of the challenges in pricing this plan. There are a lot of unknowns and a lot of assumptions that need to be nailed down that are pretty volatile to predict.