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LONG-TERM CARE INSURANCE FOR FEDERAL EMPLOYEES

HEARING

BEFORE THE

INTERNATIONAL SECURITY, PROLIFERATION, AND FEDERAL SERVICES SUBCOMMITTEE

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

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LONG-TERM CARE INSURANCE FOR FEDERAL EMPLOYEES

TUESDAY, MAY 16, 2000

U.S. SENATE
SUBCOMMITTEE ON INTERNATIONAL SECURITY,
PROLIFERATION, AND FEDERAL SERVICES
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:03 a.m. in room 342, Senate Dirksen Building, Hon. Thad Cochran (Chairman of the Subcommittee) presiding.

Present: Senators Cochran, Collins, Akaka, and Cleland.

STATEMENT OF HON. THAD COCHRAN, A U.S. SENATOR FROM THE STATE OF MISSISSIPPI

Senator COCHRAN. The Subcommittee will please come to order.

We welcome our witnesses at our hearing today, which we have convened to consider legislation to establish long-term care insurance programs for Federal employees and retirees, including members of the uniformed services.

We are very happy to have with us two distinguished Senators as our first witnesses, Senator Chuck Grassley of Iowa and Senator Barbara Mikulski of Maryland. They have both shown leadership in this area and have introduced legislation on this subject which will be considered by the Subcommittee this morning.

We know that long-term care insurance is very important to help individuals meet their family responsibilities and plan for the many challenges of caring for an elderly loved one. But few employers offer a long-term care insurance benefit to their employees and only 8 percent of Americans currently have long-term care insurance policies.

So, by considering a program that will offer affordable long-term health care is something that will be very important and beneficial to those who work for and are retired from service for the Federal Government.

As the Nation's largest employer, the Federal Government can serve as a model, too, for other employers across the Nation who have employees with the same needs as Federal employees and retirees.

So we are at a point where we can do something that will have, I think, some very important repercussions throughout the country if we recommend legislation to the Senate on this subject.

Our distinguished colleague from Hawaii is the Ranking Minority Member of the Subcommittee. Senator Akaka, I will recognize you to offer any comment you would like to make at this time.

STATEMENT OF HON. DANIEL AKAKA,[1] A U.S. SENATOR FROM THE STATE OF HAWAII

Senator AKAKA. Thank you very much, Mr. Chairman. Senator Cochran, I want to join you in welcoming Senator Grassley and Senator Mikulski, who along with my good friend, Senator Cleland, have worked so hard in getting us to where we are today.

I also wish to express my deep appreciation to Janice Lachance, the Director of the Office of Personnel Management, for the tremendous job that she and her team has done in seeing these bills through the legislative process.

I commend you all on your leadership, perseverance, and determination. I am proud to co-sponsor Senator Grassley's bill, S. 2420 and S. 2218 offered by Senator Cleland. Both bills offer members of the Federal family the opportunity of purchasing long-term care insurance.

As the Ranking Minority Member of this Subcommittee, I am hopeful that we will take quick action to move legislation to address the long-term care insurance needs of the 13 million individuals who will be eligible for this benefit.

Mr. Chairman, I will stop here and continue later.

Senator COCHRAN. Thank you very much, Senator. Senator Collins.

STATEMENT OF HON. SUSAN COLLINS,[2] A U.S. SENATOR FROM THE STATE OF MAINE

Senator COLLINS. Thank you very much, Mr. Chairman. I have a lengthy opening statement that I would like to submit for the record in its entirety.

I would like to make just a few comments. I want to start by thanking you for holding this hearing on this important issue, and also commend Senator Akaka and yourself, Mr. Chairman, and our two colleagues for their leadership on this issue.

I am also pleased to note that we will be hearing from the Director of the Office of Personnel Management, Janice Lachance, who is from the State of Maine, so I am sure she will have a lot of wisdom to share with us on this issue.

This is such an important issue. Long-term care is the major catastrophic health care expense faced by older Americans today. These costs are only going to increase as the baby boomer generation ages.

We know that nursing home costs range from $40,000 to $70,000 a year, so a chronic illness requiring long-term care can easily bankrupt a family and result in taxpayers having to pick up the tab through the Medicaid program.

Unfortunately, many Americans mistakenly believe that Medicare or their private insurance policies will cover the costs of long-

[1] The prepared statement of Senator Akaka appears in the Appendix on page 00.
[2] The prepared statement of Senator Collins appears in the Appendix on page 00.

term health care should they develop a chronic illness or a cognitive impairment such as Alzheimer's Disease.

But, if they don't have specific long-term care insurance, that isn't the case. Too many Americans don't discover that they lack this kind of coverage until they are faced with the prospect of placing a frail parent or a loved one in a nursing home and then face the shocking realization that they will have to cover the costs themselves.

During consideration of the patient's bill of rights I offered an amendment which was adopted by the Senate to expand the tax deductibility of long-term care insurance to encourage more Americans to purchase it.

This provision, which is currently pending in conference, would permit individuals who purchase long-term care insurance on their own without an employer subsidy to deduct 100 percent of the costs.

I am also very pleased to have joined Senators Grassley, Mikulski, Cleland, and Akaka last month in introducing the Long-Term Care Security Act which is before this Subcommittee today.

I want to mention that I first became interested in this issue when a former colleague of mine at Hudson College talked to me about the enormous burdens that his family was facing when his sister, a retired civil servant, was placed in a nursing home and they discovered that they had no coverage.

So, I think it is a common occurrence and indeed the legislation before us would help over 43,000 Mainers and their families who would be eligible for the long-term care coverage provided under this legislation.

So, again, I want to thank you, Mr. Chairman, for shining a spotlight on this important issue. I do hope that we will move legislation through the Senate this year. Thank you.

Senator COCHRAN. Senator Grassley, you may proceed.

STATEMENT OF HON. CHARLES E. GRASSLEY,[1] A U.S. SENATOR FROM THE STATE OF IOWA

Senator GRASSLEY. I thank Senator Mikulski for being here with me as we speak about this bill. Her presence, as well as references already made by Members of this Subcommittee to this being a consensus bipartisan approach have been well-stated and I won't repeat those.

We all know how expensive long-term care is. As chairman of the Committee on Aging, we have had lots of hearings on this issue. This sort of insurance bill is one way to help meet those costs because long-term care is so labor intensive and expensive.

I am interested in easing the fears associated with the long-term care. Insurance is an important way to build peace of mind. Long-term care insurance is increasingly available. It allows individuals to buy a policy that will cover their costs if they need long-term care.

The younger the person, the lower the premium, so it pays to plan early. Despite its value, long-term care insurance is just now

[1] The prepared statement of Senator Grassley appears in the Appendix on page 00.

catching on. You said, Mr. Chairman, only 8 percent. That is probably 8 percent more than 10 years ago.

The spark hasn't turned into a flame. Many Americans don't realize that there are products available. Sometimes they presume incorrectly that the government is going to cover their long-term care insurance. That obviously can happen through Medicaid, but first there's a process of impoverishing one's self to take advantage of that, which isn't a very good situation for those who are left behind.

So, the question for policy makers is: How do we promote long-term care insurance? It makes sense to start with large employers. The Federal Government is an example. Insurance premiums are often group-based, the larger the group paying the insurance, the cheaper the rates for each participant.

The Federal Government should help its employees to get long-term car insurance being a good employer. The bill that Senator Mikulski and I introduced would put the Federal Government's purchasing power to work. This legislation allows the government to negotiate group rates for long-term care insurance.

Our bill would offer Federal employees a way to buy long-term care insurance for themselves and their families at affordable, reasonable rates.

From every indication, Federal employees would welcome this opportunity. Then, I am not going to read three examples that I have from constituents in my State that show how they would benefit from this, but that will be included in the record.

These Iowans deserve credit for being aware of and informed about the potential financial risk associated with long-term care.

Today, there are more than 20 million families who are caring for a family member at home with long-term care needs. Compare this number to just one million nursing home residents. Clearly, families are the experts when it comes to long-term care. These families know first-hand about the financial and emotional challenges that accompany long-term care.

Unfortunately, in far too many cases families are unprepared to cover the cost of long-term care and find themselves facing financial devastation. We need to learn from these experiences and we need to take steps now to help families better prepare for long-term care.

The enactment of this bill that we are discussing today is an important first step. As a leading employer, we have the opportunity now to help millions of American families plan responsibly for their retirement and gain the security that is necessary for achieving a high quality of life in retirement years.

But there is a subsidiary benefit of this legislation that I want to emphasize: The Federal Government can and should set an example for other employers as to the importance of long-term care in the lives of American families everywhere.

Mr. Chairman, I thank you for holding today's hearing. I look forward to continuing to work with the bipartisan consensus group and expanding that group so that we can provide long-term care for Federal employees and set an example for other employees around the country.

Senator COCHRAN. Thank you, Senator Grassley.

Senator GRASSLEY. If it is not going to make anybody mad, I would like to go visit with Senator Lott now. I've got an appointment with him.

Senator COCHRAN. I am sure he would benefit from your visit.

Senator MIKULSKI. Is that how we are going to do a bipartisan prescription drug benefit?

Senator COCHRAN. Thank you, Senator, for being here to help us understand this legislation. You have been a strong leader as chairman of the Committee on Aging and in other ways you have been a proponent of this legislation. We appreciate your leadership.

Senator GRASSLEY. Thank you, Mr. Chairman.

Senator COCHRAN. Senator Mikulski.

Senator MIKULSKI. Mr. Chairman, I want to thank you for this hearing. Working with Senator Grassley on this bill has really been, I think, what bipartisan cooperation is all about.

What he brought to the table in our conversation was his many years and long-standing record on adequacy for the elderly, his experience on the Finance Committee, his belief that there needs to be a relationship with the private sector, not a new government insurance policy, but linkages.

He was just a wealth of knowledge and a well of courtesy and civility and I really do appreciate our mutual participation in this.

Senator GRASSLEY. You are very kind. Thank you.

Senator COCHRAN. Thank you very much. Senator Mikulski.

STATEMENT OF HON. BARBARA MIKULSKI,[1] A U.S. SENATOR FROM THE STATE OF MARYLAND

Senator MIKULSKI. Thank you very much, Mr. Chairman. I would like to thank you and our Ranking Minority Member, Senator Akaka, for holding this hearing and for all of the hard work on this issue.

I noted the work of Senator Grassley as we took what was once a national goal and turned it into national legislation.

I would also like to thank my colleague, Senator Cleland, because of the expertise that he brought from the Armed Services Committee to our conversation about how we needed to have a larger umbrella for not only Federal retirees but also the military retirees as well, and brought that considerable knowledge.

Senator Collins' work on the elderly has been well-known and appreciated on both sides of the aisle. I think Senator Collins on this very Subcommittee, sir, her work on dealing with senior scams really was, I think, an outstanding effort.

Right now people have more money in their checkbook and their checkbook is safer because of what Senator Collins did. This is really what a bipartisan effort should be all about.

So, we look forward now that we've got our plan to present it to you and hope that the Committee will act and we can take it to our colleagues on the Floor. As you know, a parallel bill has passed the House of Representatives and it would be just great if we could have this bill done by Fathers' Day. But, we will leave it to you to act in your wisdom.

[1] The prepared statement of Senator Mikulski appears in the Appendix on page 00.

I like this legislation because it does four things: It enables Federal and military workers and retirees and their families to buy long-term care insurance at a group rate. These rates are projected to be anywhere from 15 to 20 percent below the current private market when you buy it as an individual.

It would also create a model that hopefully private employers could use to establish their own long-term care insurance program.

More importantly, or equally importantly, it will give help to those who practice self help by offering employees the option to better prepare for retirement or the possibility of disability or chronic illness.

In addition to that, it reduces the reliance on Federal programs like Medicaid for the American taxpayer. So, this is a framework that really could have a substantial impact on our Medicaid program and a substantial impact on American families. It will also impact on the rate structures so that the private sector could flourish, but at the same time these policies could be more affordable.

This legislation gives choices, flexibility, hopefully financial security and peace of mind, and most of all, what we hope is affordability. Many people, when they are faced with a chronic illness like Alzheimer's or Parkinson's, do not have many choices. They are often forced to spend down to qualify for Medicaid or a spouse devotes him or herself to the care of a loved one or an adult child quits their job to care for an aging or ill parent.

Either way, the choices are quite Spartan and often quite expensive. I got into this whole issue because of two major factors that occurred in my own life. My own dear father who saw to the education of my sisters and I was struck by the ravages of Alzheimer's. This is why we were so sympathetic to the First Family, Mr. and Mrs. Reagan, and our first caregiver, Mrs. Reagan.

But not every one is the President of the United States and not everyone has a daughter who is a U.S. Senator who could help sort through this.

With my father, it would have been cruel to keep him at home because he became so disoriented and it was so difficult for my mother who herself was a diabetic and a person with angina. We had to turn to long-term care. We sought a Chevy Cavalier, or Lumina or Ford Taurus nursing home for our father. We first had to make sure it was safe because with the loss of his cognitive ability, we wanted to be as protective of him as he was protective of us.

So we did our homework. We followed the checklist for what nursing home standards should be. We checked with the ombudsmen reports. We knew it was safe. Then we looked at the bill. It was $3,000 a month in the late 1980's, $36,000 a year.

My father was a grocer. Mother worked in the store with Dad. Their legacy is not some big trust fund, but the respect of the people they served and the love of their children. We looked out for our father, but we watched as the family had to spend down their life savings.

As I visited Dad and talked with other people in the nursing home, they were facing the cruel choices of spending down their life savings, the impoverishment of the spouse at home, or going into the funds that they had saved for their own children's college tuition. That was the sandwich generation.

Well, we went to work and created the Spousal Anti-Impoverishment Act that at least provided a better safety net so you didn't have to spend down to $3,000 with a lien on the family home or the family farm.

That was a down payment on long-term care, but unfortunately, it was the only payment on long-term care.

So, we believe that if middle-class families could have the option to purchase long-term care insurance, it would be the first safety net and to give help to those who practice self help.

I support tax credits for long-term care insurance. That should be a no-brainer and we should just pass it with other legislation that Congress is working on.

But at the same time, when I was approaching my own 60th birthday, an excellent insurance broker called me and asked, "You talk all this about long-term care. What are you doing for yourself?"

Well, I was going to roll the dice and hope Congress was going to do something. Well, that and the Tooth Fairy might give dental care. So, I felt I'd better get with the program here.

When I looked at the rates and used the kind of consumer education that I hope we make available to our Federal employees, I saw that if I could buy long-term care insurance before my 60th birthday, it would be one rate. Six weeks after that birthday, that rate would have doubled. By the time I hit 65 it would have quadrupled, presuming no health status change.

All of us know that once you get past that 60,000 miles, you need a lot of maintenance and a lot of little parts start to go wrong.

Well, my sparkplugs are still firing, and I have long-term care insurance, and I could afford it. But I would like to make that available for our constituency by starting with the Federal Government.

If we could create this large pool, let the private sector be best at what they do, and we are best at what we do, which is providing information and options, I think we could have a significant impact on the very nature of making long-term care insurance available and affordable to one group of people which we could then expand to others.

So, this is why I would hope that we could pass this legislation. I think that when we deal with the issues of long-term care we really do need public-private partnerships.

We can't have a new government program. I don't think we could afford to do it. But we can have a new government approach that makes long-term care affordable, available and reliable.

So, having said that, I would like to just urge the movement of our bill. I want to thank you for all of your courtesy and collegiality and look forward to working with you all the way taking this up to the bill signing.

Senator COCHRAN. Thank you, Senator Mikulski, for your excellent statement. It was not only persuasive and eloquent, but entertaining as well. We appreciate your leadership, too. I mentioned that of Senator Grassley, but we know that you have been a leader in this cause and the legislation before us is proof of that.

In many ways we are going to be looking to you to help us get this problem solved and legislation to the President, I hope, before Fathers Day. Is that next month? I am a father, but I can't keep up with all these dates.

Senator MIKULSKI. It is June, about the weekend somewhere around June 20. So, we have a lot of time.

Senator COCHRAN. That's right. There are no excuses.

Senator MIKULSKI. Well, at least to move it to the Floor.

Senator COCHRAN. Senator Akaka, do you have any questions or comments?

Senator AKAKA. Well, I want to thank Senator Mikulski for not only her personal but glorious statement that supports what we are trying to do. I want to thank you very much for your leadership, too.

Senator MIKULSKI. You, too, sir.

Senator COCHRAN. Senator Collins.

Senator COLLINS. I just want to join my colleagues in praising Senator Mikulski for her long-standing interest in solving this problem. She has indeed been a real leader and she always brings such good personal experience to put a practical face on the problems facing the Senate. So, I very much appreciate your leadership.

Senator MIKULSKI. Thank you.

Senator COLLINS. And your kind words.

Senator MIKULSKI. Thank you.

Senator COCHRAN. Senator Cleland.

STATEMENT OF HON. MAX CLELAND,[1] A U.S. SENATOR FROM THE STATE OF GEORGIA.

Senator CLELAND. Mr. Chairman, thank you very much. I just want to say that I feel like Senator Mikulski, Senator Grassley and I have been working on this long-term insurance question for a long time.

But its time has come. Victor Hugo once said that an invasion of armies could be resisted, but not an idea whose time has come. I particularly am pleased to work with them from the point of view of including the military personnel on active duty as well as military retirees and their families in this package.

With an aging American population, the need for elder care and long-term care services is rapidly growing. At this time, Mr. Chairman, only about seven million Americans have long-term care insurance.

Long-term care insurance is relatively new and has only been sold about 20 years. Many Americans do not realize that health insurance and Medicare do not cover long-term care needs and Medicaid covers these needs for only the impoverished with $80,000 or less in assets and $50 a month in income.

It has also been reported that almost half of women in caregiver roles, 41 percent, quit their jobs or take family medical leave to care for a frail older parent or parent-in-law.

Consider in just 11 years the first wave of baby boomers turns 65. I am on the cutting edge of the baby boomers, so I am going to be in that category. These Americans, having worked for some

[1] The prepared statement of Senator Cleland appears in the Appendix on page 00.

30 years or more tell us they now fear retiring because they are unable to pay for assisted living needs. They have good cause for worry.

The emotional and financial burdens for the American family can be staggering. Very few have had the opportunity to plan ahead.

We, the Members of the Senate, have the perfect opportunity in this legislation to help so many avoid the potential long-term care crisis.

The concept of long-term care insurance was introduced a decade ago in the 101st Congress. Yet, each session this proposal has met with barriers imposed by partisan issues and unanswered questions about how such a model would work.

With our growing numbers of retiring Federal and military employees, long-term care needs have increased as a national priority.

Hubert Humphrey once stated that the moral test of government is how that government treats those who are in the dawn of life, children, those who are in the twilight of life, the elderly, and those who are in the shadows of life, the sick, the needy, and the handicapped.

As a disabled, 25-year old Vietnam veteran, I was able to come out of the shadows of life with the help of the military and the VA health care system and family and friends. But I can certainly understand the concerns of Americans facing the dilemma of long-term care.

Long-term care can be frightening and overwhelming when one is unprepared with the needed resources. Among the many long-term care insurance issues, the main areas of debate have centered around competition and the Office of Personnel Management's role in administering such a plan.

Through our bipartisan effort, Senators Mikulski, Grassley and I have collaborated with OPM, the Department of Defense, potential beneficiaries, and the insurance industry in resolving these issues by creating a Federal employer-based, long-term care insurance program which can be a model for the Nation and will allow Federal employees, active duty members and military retirees and their families to purchase long-term health care insurance at 10 to 20 percent of what the market rate out there is now.

The House passed this measure on May 10 of this year. I am very pleased that this measure now introduced in the Senate as S. 2420, proposes the largest employer-based long-term care insurance program in American history.

It includes Federal employees, members of the military services, reservists, National Guardsmen and women, retirees, spouses, surviving spouses, parents, parents-in-law, and adult children.

This program has a potential of 13 million beneficiaries. It is my hope, Mr. Chairman, that we not lose our momentum and pass this measure soon. If enacted now, it will take at least 18 months or as long as the Year 2002 for this program to be fully implemented.

Our plan proposes age-based premiums so each year we delay the higher the premiums that beneficiaries will have to pay.

I urge my colleagues to move this proposal and pass the Federal Employer Long-term Care Insurance Program. Let's do more than tell working Americans to weather the storm of long-term care.

Let's change the climate for a brighter, more secure tomorrow. Thank you, Mr. Chairman.

Senator COCHRAN. Thank you, Senator Cleland for your excellent statement and your hard work on this legislation.

Senator Mikulski, thank you again for being here and leading off our hearing today with Senator Grassley.

We are now pleased to have the Director of the Office of Personnel Management, Ms. Janice Lachance, as our next witness.

We have been working with the Office of Personnel Management. Our staff members have met with staff members of that agency and others to help prepare for this hearing and also to prepare a legislative solution to the problem of long-term care expenses for families who are involved with employees of the Federal Government, both military and civilian.

Ms. Lachance, welcome. We appreciate your being here and providing us with the statement which we have agreed to put in the record in full.

We hope you will make any summary comments that you think are appropriate. You may proceed.

STATEMENT OF HON. JANICE LACHANCE,[1] DIRECTOR, U.S. OFFICE OF PERSONNEL MANAGEMENT

Ms. LACHANCE. Thank you, sir. I am so grateful to all of you for holding this hearing, but also, for all of the work that every one of you has put in to get us to this point.

It is a truly remarkable collaborative effort among the administration, bipartisan Members of Congress and the Senate, and really, a broad range of stakeholders and the industry to get us to this point. I am very, very grateful for all of you.

For too many in this country old age has become a time when getting ahead amounts to barely staying even. We are all here to change that for millions of Americans by building the kind of statutory framework that will provide long-term care insurance and security.

The fact that we are here today proves that people are coming to terms with the very real fact that the population of the United States is getting older and it is a population that will need long-term care options.

Families today provide 80 percent of the long-term care needed by older persons. If I could put that in perspective for you, you and your family can reasonably expect to spend more time caring for an older relative than caring for your own children.

This is an issue that is very, very dear to my own heart. I know Senator Collins talked about the 43,000 Mainers who would benefit from this.

There are two that I particularly care about. They are my parents in Saco. I think about how fortunate I am that they are living long, full lives. But I do worry, as do all children my age, how they are going to deal with the spiraling increases in long-term care costs if and when they need it.

And how are all of us going to deal with the heart-wrenching choices we are sometimes forced to make to provide the care and

[1] The prepared statement of Ms. Lachance appears in the Appendix on page 00.

comfort our loved ones will need in their later years. How can we keep them from being crushed by debt because of illness? How can we make sure they get the right care for their needs and that it is quality care? How can we make sure they get all the long-term care they need?

I would like to share with you, if you have a moment, a story that illustrates this point. Earlier this year I received a letter from the wife of a Federal retiree with 30 years of government service. He was a veteran. Because the retiree suffered a series of strokes that required extensive and very expensive hospitalization and therapy, the couple exhausted their FEHBP benefits and decided to apply for Medicaid.

Unfortunately, under Medicaid guidelines he was denied coverage because the family was over income and over assets. In fact, their retirement income alone disqualified them from Social Security SSI and Disability.

Desperate for long-term care, the couple put their home up for sale, sold their cars, and began using up their retirement income, all in an effort to become poor enough to qualify for long-term care coverage.

Now, we have already contacted their health plan and asked them to look into other options to assist them right now because they need the help right now. They and millions of families like them will need the kind of care you are discussing here today for many, many years to come.

As the Director of OPM, I can tell you that far too many members of the Federal workforce are in the very same situation, struggling with the challenges of caring for those they love who require special medical attention over a long period of time now.

So, for some time OPM has been working with you and other stakeholders to make long-term care insurance available for current and retired Federal retirees, military personnel retirees and their eligible family members, in short, for the people we love.

Under H.R. 4040, OPM would have the authority to design a long-term care insurance package that offers an array of long-term care services to meet the needs of the broadest population possible.

This proposal would also provide the flexibility to contract for benefits with one or more private carriers. This means that it would give us the flexibility needed to obtain the best value for the entire Federal family. Contracts will be awarded the right way, solely on the basis of contractor qualifications, price, and reasonable competition.

By using the size of the Federal family, some 13 million people, as leverage, we will be able to provide this insurance at group rates, expected to be 15 to 20 percent lower than individual rates. So, we believe it will be a very good deal, indeed.

Now, once this proposal is adopted, OPM intends to run a campaign to educate possible participants about the benefits of buying this insurance and this particular program.

We will also solicit and evaluate potential insurers, choose a contractor, and then hold an open enrollment period. Our hope is that by making private long-term care insurance available to the Federal family at negotiated group rates, we will once again serve as a model to other employers across the Nation.

We will also heighten our Nation's awareness of the growing need for people to start planning for their own future long-term care needs.

We believe the House bill and its companion Senate bill and S. 2218 all offer OPM the legislative framework necessary to launch a successful long-term care insurance program.

I urge you to give these bills your earliest consideration and reach consensus so that this legislation can be enacted as quickly as possible.

Long-term care insurance will greatly enhance the quality of life for both Federal employees and members of the Armed Services. It will let them care for their aging parents and will let their children care for them with dignity and financial security. It is the right thing to do and it is the right time to do it.

At this time, Mr. Chairman, I will be glad to answer your questions.

Senator COCHRAN. Thank you very much, Ms. Lachance.

Under the S. 2420, your office is authorized to contract with one or more qualified carriers to provide long-term care insurance policies. OPM is also required to ensure that each resulting contract is awarded on the basis of contractor qualifications, price and reasonable competition.

Can you explain to us how you expect the contracting process to work under these provisions?

Ms. LACHANCE. Certainly, sir, I will be glad to do that. We have worked closely with a number of stakeholders and the insurance industry to talk with them about their capability, their willingness to participate in this program. We have found them to be a very willing partner in all of this.

We spend a significant amount of time, once the legislation is passed, consulting with all of these groups, deciding who would be a part of this pool specifically, and then coming up with the proposal that insurance companies or a consortium of insurance companies could bid on.

At that point we will evaluate the proposals and sit down with those who we feel are qualified and begin a negotiation process to make sure those who we represent have the best possible deal and the best benefits possible at the most reasonable rates.

Then, at that point only would we award the contract.

Senator COCHRAN. The legislation, S. 2420, also requires OPM to ensure reasonable competition among insurance companies interested in bidding for long-term care insurance contracts.

How would you ensure that that occurs?

Ms. LACHANCE. Again, in working with the insurance industry, we are going to make sure that all the insurance companies who are interested in this will be at the table when we discuss the proposal, the prospects, the legislation, and work with them to ensure that there is adequate competition and adequate notice of what we are looking for so that they can come forward with their best possible products.

Senator COCHRAN. Included in the provision is the awarding of a contract on the basis of qualifications as well. How will you judge the qualifications of each contractor?

Ms. LACHANCE. We want to make sure that this is a program that qualifies under the Internal Revenue Code for health long-term care benefits, so we are going to use the standards that they use.

In addition, we are going to make sure that each insurance company who is involved in this can do business in all 50 States; that they include adequate consumer protections in their proposal; that they take on all of the risks; and that they promise to keep the money that is collected from this program in a separate pool, separate from any other funds that they collect.

Senator COCHRAN. There are some private sector employers who have long-term care contracts for their employees. Have you had an opportunity to compare the process you just outlined to the process used by private sector employers?

Ms. LACHANCE. We have. We have talked to some consultants who have worked extensively with private sector companies who have offered this, as well as the Department of Health and Human Services who has extensive experience in this area.

We are looking at a similar approach, but obviously ours has to be different because it is so much bigger. We feel it is important to work with all of the stakeholders and make sure that it is the kind of process that really results in the contract going to the best company or companies and also that it has the best benefits for those we represent.

Senator COCHRAN. I am going to ask you another question about S. 2218, a companion bill that we are reviewing this morning along with S. 2420.

Then I am going to yield to my good friend, Senator Akaka for any questions that he might have.

But under S. 2218 OPM is authorized to contract with a primary carrier with respect to the assumption of risk, no less than two carriers to act as re-insurers, and as many carriers as necessary to administer the program.

My questions are: How would the contracting process work under this assumption of risk situation and does this create any particular problem for OPM?

Ms. LACHANCE. Mr. Chairman, we are probably more comfortable with a program that is more flexible or as flexible as possible because it is something that has never been done before.

But we are confident that we could come up with a good product for Federal employees and retirees, for the entire Federal family with whatever bill is ultimately enacted.

We are comfortable with all the approaches.

Senator COCHRAN. Senator Akaka.

Senator AKAKA. Thank you very much, Mr. Chairman.

The Office of Management and Budget issued a Statement of Administration Policy prior to the House taking up its long-term insurance bill under suspension just last week.

There were several issues raised by the SAP that I would like to ask you about today. One issue is the application of appropriate accounting practices and principles to protect the interests of beneficiaries under the long-term care contracting program.

The question is, how will you assure that participating carriers adhere to appropriate common practices and principles?

Ms. LACHANCE. Thank you, Senator. We believe that there will be enough information in the program to ensure the financial integrity of the contract and enable us to monitor how the program is being administered.

Cost accounting standards, of course, are very important. That is one way at getting at that information. But even without that provision in the bill, we believe we would still be able to have enough information to do a good job on behalf of our beneficiaries.

Senator AKAKA. Our Federal work force average age is 46 years old. Not only are they thinking about their own retirement, but a good number of them are already caring for aging parents or relatives.

As you mentioned, about 80 percent of persons over the age of 65, who need assistance, receive help from relatives.

The question concerns appropriations. S. 2420 does not authorize appropriations for the implementation and administration of the long-term care insurance program. Rather, it uses the employees life insurance fund for these purposes.

How will OPM limit exposure to the fund's resources and maintain the distinction between the long-term care administrative account to be created with the fund and the fund itself.

Ms. LACHANCE. Certainly. We feel that either approach would work well for us. We obviously would prefer an appropriation because that is the way we are all accustomed to doing business. But we do feel as though we can set up the kind of accountability that would allow us to keep track of every dollar that is taken out of the life insurance fund to get this program launched.

The way the program is launched is going to be critical to its success. So, we are comfortable that having those resources at the ready for us to invest in this kind of start-up and they will be critical to a successful program. We think we will be able to keep track of every dollar and make sure that it is all reimbursed within the first year by the carriers once the program is off the ground.

Senator AKAKA. Well, Mr. Chairman, I will give up my time for questions here. May I ask that my full statement be added to the one that I made earlier? [1]

Senator COCHRAN. Absolutely, your statement will be made a part of the record as will the statements of Senator Collins and Senator Cleland. We thank you for your participation in this.

Let me ask you, Ms. Lachance, about this issue. Under S. 2420, the master contract expires in 7 years. Under S. 2218 the contract term is 5 years. What would be the procedure for making the transition to a new carrier or carriers in the event a change occurs at the end of a contract term?

Ms. LACHANCE. Senator, I think what we would have to do at the time the term expires would be once again assess how successful the program has been. We are going to have help in that from GAO, according to all versions of the bill.

We are also planning on spending a lot of time with our customers to make sure that they are satisfied, not only with the benefits, but with the service they are getting from the carrier.

[1] The prepared statement of Senator Akaka appears in the Appendix on page 00.

Then we will be able to evaluate whether or not a change has to be made and then we would go ahead with the open process and the open competitive contracting process once again.

Senator COCHRAN. Is there any necessity for a statutory provision dealing with the termination by an insurance carrier before the end of its contract period?

Ms. LACHANCE. In our conversations with the industry, we have not really heard anything like that. I will be glad to double-check that and get back to you for the record if we do think we need something. But it has never been an issue that the insurance companies who we have been working with have felt that they could not fulfill the terms of the contract.

INFORMATION FOR THE RECORD

There is no need for a statutory provision relating to the termination of an insurance carrier prior to the end of the contract period. Termination of contract provisions will be incorporated in the master contract and in implementing regulations. Both the contract and regulations will provide for a notification period prior to termination of the contract and a continuity of services provision.

Senator COCHRAN. What will OPM do to ensure that there are no adverse consequences to policy holders when there is a change of insurance carriers at the end of a term?

Ms. LACHANCE. We are going to make sure that all of the consumer protections that are in place when somebody buys a policy or purchases a policy will stay in place throughout the life of their policy.

People have to be able to plan. Obviously, there may be some changes. The landscape of long-term care itself may change, so we will want to keep up with that.

But we think there are some fundamental consumer protections that have to be a part of every contract that we issue, no matter who the carrier is. That will be what the customer is buying, this policy, not necessarily a relationship with the particular contractor.

Senator COCHRAN. There are State laws and licensing procedures and I am sure that they are different in some respects from State to State.

Given the different capabilities of States to oversee insurance carriers, how will OPM ensure that the qualified carriers are financially sound?

Ms. LACHANCE. We will be working continuously with them to make sure they have the adequate resources to make good on whatever promises they made in the process. That is going to be an integral part of our role.

We want to work closely with Members of Congress and Congressional committees, as well as GAO, to make sure that this is the best possible program it can be. Obviously, that is a fundamental requirement for success.

So, we will be very heavily involved in making sure that these companies have the resources they need to do this appropriately.

Senator COCHRAN. Given the financial conditions of a carrier that might change during the contract, do you see any need for a requirement for OPM to guarantee the financial stability of a carrier?

Ms. LACHANCE. I don't anticipate that, sir.

Senator COCHRAN. What contingency or claim reserve requirements would OPM require of carriers who do not have adequate resources to fulfill their obligations to the policy holders?

Ms. LACHANCE. I know we would require adequate reserves as we do in the FEHBP. However, I am not sure we have really come to any specific conclusions on that, given the fact that we really are just starting the conversations on this.

Senator COCHRAN. Senator Akaka, I have several other questions to ask. I think I am going to submit some of these.[1]

If you have any other questions, I would be glad for you to ask them.

Senator AKAKA. Thank you for this opportunity. I should tell you about my State of Hawaii. Thirteen point two percent of the population at present are 65 years and older in Hawaii.

Although Hawaii enjoys one of the highest life expectancies, 79 years compared to a national average of 75 years, the State's rapidly aging population will greatly affect available resources for a long time. So, this issue is very important for my State.

My question is: Are there any estimates of how much the Federal Government has lost in terms of lost time, employee absences and lost productivity due to long-term related activities and expenses?

Ms. LACHANCE. I wish I had the answer to that, Senator. I really don't know. We try, as you know, to accommodate family situations. We try to be a model not only in this area but in the health insurance area, but also in family friendly policies.

I know that people are very grateful and enthusiastic about those benefits and flexibilities they have, but I am afraid I don't have that kind of estimate.

It is really through anecdotal evidence and people talking with us about why they need leave under the Family Medical Leave Act, for example, that we would know how much it is needed and how much it is being used.

Senator AKAKA. How will the premium payments be handled for policy holders who do not use direct deposit for their payroll or retirement benefits? Will this add extra costs to the program?

Ms. LACHANCE. I don't think it would add extra costs, Senator, because I think it is pretty routine now for us to be able to pay our bills through some sort of debit system right out of our checking accounts. That is what I would anticipate would be established for people who are not Federal employees or do not get a check or compensation from the Federal Government.

Senator AKAKA. What happens to long-term care insurance policies for active Federal employees or members of the Armed Services who leave government employment or separate from the service? Will they be able to take the policies with them? If so, how would that work?

Ms. LACHANCE. Yes, sir, they would be able to keep the policy with them. We would just have to change the way they make the monthly payment or the annual payment, however they have arranged to do that, and just make sure that they have some sort of direct withdrawal from their checking account so that the policy does not lapse. It would be paid directly to the insurance carrier.

[1] The questions and responses from Senator Cochran appears in the Appendix on page 00.

Senator AKAKA. Well, it is essential that the Federal Government, as the Nation's largest employer, offer its employees choices to provide for their retirement by ensuring financial stability in the future.

Long-term care insurance is one such option. There are already some active Federal employees and retirees who have long-term care insurance. Will these people be able to transfer their individual policies to the Federal group program?

Ms. LACHANCE. We are going to look into that, Senator. We are going to do everything we can to make sure that people who already have a policy get the benefit of the money they have already paid in.

It may depend on the individual policies, but we are going to spend a significant amount of time to make sure that those who want to switch over to the Federal plan get as much benefit out of whatever amount of money they have paid in as premiums to some other carrier or under some other policy.

Senator AKAKA. What about policy holders who begin to pay on their policy but for any number of reasons, such as the inability to pay or unforeseen financial expense stop paying the premium?

Are there protections for individuals who have paid into policies and would they have a percentage of the money returned to them?

Ms. LACHANCE. I am not sure that there would be any money coming back. But let me tell you about one of the consumer protections that we anticipate having in the program.

That is non-forfeiture protection. What would happen is the insurance carrier would work with that person to evaluate what the value of the premiums that they have paid in is and make sure that they have benefits equal to that amount.

So, there may be a shorter benefit period as a result, but they will get benefits for what they have paid in. Nobody is going to lose any money if they choose to walk away from the policy or decide they can no longer pay for it.

Senator AKAKA. Would an insurer be able to cancel the policy? If so, under what conditions?

Ms. LACHANCE. I could get back with you on the record for that. The only reason that I can anticipate, and with the kinds of consumer protections that we are looking at, Senator, the only reason that a policy could be canceled would be for non-payment of premiums.

Senator AKAKA. I see. Well, My final question, Mr. Chairman, has to do with tax. Federal employees health insurance premiums will soon be considered pre-tax income. Will long-term care insurance be offered under a premium conversation program whereby employees can elect to pay premiums on a pre-tax basis?

Ms. LACHANCE. Unfortunately, the Internal Revenue Code specifically prohibits that, so we will not be able to do that. But that may be the next phase of our effort, to provide long-term care for Federal employees.

Senator AKAKA. Well, thank you very much for your responses. I wish you well.

Senator COCHRAN. Thank you, Senator.

Ms. Lachance, one of the benefits of employer-provided group long-term care insurance is that the premiums for the policy are typically less expensive than the premiums for a similar individual policy purchased on the open market.

We have heard this morning that the group rates under the Federal program are expected to be 15 to 20 percent lower than individual rates. How confident are you that OPM can achieve rates that are 15 to 20 percent lower than the open market?

Ms. LACHANCE. I am very confident, sir. That estimate comes from a number of sources. We have worked extensively with consultants and people who work in this area, experts who have consistently come up with this kind of discount rate for our program. And we have talked with the insurance carriers who fully believe this is doable.

So, we are excited about the prospect and we think it will make a big difference in affordability for a number of people who might have been putting off this decision.

Senator COCHRAN. Employer-sponsored long-term care insurance is a relatively new concept in employee benefits. There is not a great deal of experience with this insurance product.

As the product matures and develops over time, there is the possibility that the cost to the carriers of providing the insurance may increase or decrease necessitating a change in premiums.

What will the process be for considering premium adjustments during the term of a master contract with a carrier or multiple carriers?

Ms. LACHANCE. Our hope is to have that established in the initial contract so that people will know what they are getting into when they make this decision to purchase. I don't have any specifics now because we are really just in the discussion phase of this.

But we believe that we can come up with a way that is fair to the carrier, but also gives the customer all of the protections they need so that they don't have to fear or be concerned about any large premium increases.

In addition, we also want to make sure that we have a common consumer protection in there that talks about contingent non-forfeiture, that if premiums go up too quickly or beyond a certain percentage, that in fact the beneficiary or the policyholder could stop paying on the policy, could stop paying premiums, but still retain some measure of benefits for the amount of money they have already paid in.

Senator COCHRAN. Will OPM take a role in negotiating these premium adjustments or adjustments in coverage? How will that be handled?

Ms. LACHANCE. I believe we will be involved.

Senator COCHRAN. While the premiums for this program will be paid 100 percent by the participants in this program, OPM will have to create an administrative infrastructure to implement and administer the program.

How many employees do you think it will take for OPM to administer the program?

Ms. LACHANCE. We run the Federal Employees Health Benefits Program with what is considered to be just a handful of employees. I am sure we could do the same kind of efficient job with this program as well.

Senator COCHRAN. Do you have any estimates on the cost of the administration at this point?

Ms. LACHANCE. We are looking at about $1 million a year to sustain the program.

Senator COCHRAN. How does that compare with the Federal Employees Health Benefit Program?

Ms. LACHANCE. I will have to get back to you on that.

Senator COCHRAN. OK. You can answer that. That was a surprise question. My staff didn't write that.

Ms. LACHANCE. You are allowed.

Senator COCHRAN. Surprise. It is not a "gotcha" kind of thing. It just occurred to me.

Ms. LACHANCE. Happily, somebody who runs the program is here and says it is $20 million to run the FEHBP.

Senator COCHRAN. That is more than a handful then; isn't it?

Ms. LACHANCE. Well, that is also the entire cost. But we have about 176 employees.

Senator COCHRAN. Given the varying financial resources of perspective enrollees and the potential eligibility of some for Medicaid benefits, long-term care insurance may not be a sound expenditure of funds for everyone.

In addition, some organizations recommend that long-term care insurance not be purchased until an individual is 50 or 60 years old.

What role will OPM and the participating carriers play to ensure that all respective enrollees are furnished the necessary information to evaluate the advantages and disadvantages of obtaining long-term care insurance?

Ms. LACHANCE. We plan an extensive education campaign, Senator. Every study that has looked at the take-up rates and how long-term care insurance policies have been implemented includes a very significant education process and information process.

So we want to use every medium. We want to make sure that all of the benefits experts in the agencies across the government have the information they need to answer questions.

We are going to use electronic media. We are going to use paper. We are going to use every possible way to provide information to those who have to make this important decision.

We expect a typical take-up rate which is about 3 to 6 percent, although we would like to see it go higher than that. But I do believe that we will be able to provide the kind of education that people will need to make the kinds of choices that you are describing.

Senator COCHRAN. Under S. 2420, OPM has the authority to design the long-term care insurance package, including which benefits are offered. How will you design the benefit package?

Ms. LACHANCE. We have a number of hallmarks, Senator, and values we want to make sure are reflected in this. First of all, we want it to be as flexible as possible. We understand that there are many different circumstances for those who need this kind of coverage.

We have talked a lot here about people who prefer to stay with their families. Senator Mikulski described the situation where they felt her father had to be in a nursing home. We want it to be as flexible as possible so that people can get the right kind of care in the right setting at the time they need it. That is the first issue.

The second issue is to make sure that all of the appropriate consumer protections are included in the policy. We are using as our benchmark the National Association of Insurance Commissioners. They have done a lot of good work in this arena and have come up with a set of standards that they protect the consumer.

We want to make sure this is the floor for what we design and that the people we cover have at least those protections. Those are the two principal points that we are going to try to achieve.

Senator COCHRAN. Will there be a lot of optional benefits as well as required benefits to be provided by the carrier?

Ms. LACHANCE. That is typically how it works. I would suspect that would happen in this case as well. People can buy a policy and then choose to add on and pay extra for additional benefits they feel they may need.

Senator COCHRAN. Senator Akaka, I am planning to submit the rest of the questions that I have.[1] If you have any other questions, please feel free to ask them.

Senator AKAKA. I think she is answering so well. We have talked about putting the greatest number of enrollees together to decrease the cost.

In order to be successful in the Federal long-term care insurance program obviously you would seek the greatest number of enrollees.

How would medical underwriting be handled under this program?

Ms. LACHANCE. Yes, sir. We have had a number of discussions with the carriers on this. We would like to keep underwriting to a minimum, at least a minimum for active Federal employees and active members of the military.

Obviously, you have to balance underwriting requirements with providing an affordable, quality product. So, we want to be as inclusive as possible while maintaining the product's affordability. We think we can achieve both because of the size of our community and our family.

Senator AKAKA. Affordability is always a big question. In 1997, the average annual private market premium for an individual aged 50, who purchased a base plan with no inflation protection or nonforfeiture benefit was $385, according to the Health Insurance Association of America. That same person, with inflation protection and non-forfeiture benefit, would pay $1,110 per year. What is inflation protection and how is it computed?

Ms. LACHANCE. Inflation protection means that what you are paying for today will have the same meaning and the same redemption value when you need the benefit, perhaps 30, 40, or 50 years from now.

We plan on offering it because we think it is important. What you don't want to do is fall into a trap where you are paying for a certain amount of benefits, for example, $100 a day, and then by the time you need the benefit, that $100 is meaningless.

[1] The questions and responses from Senator Cochran appear in the Appendix on page 00.

We want to make sure people are informed about these choices that they have. They will have to weigh their own individual circumstances to see whether it is worth it to them or not to purchase this kind of inflation protection.

Senator AKAKA. Am I correct in assuming that any Federal plan would have to have inflation protection and non-forfeiture benefits?

Ms. LACHANCE. Yes, sir. It is appropriate to assume that will be part of the package that will be available for purchase.

Senator AKAKA. In order for the government's program to be successful, there must be an adequate take-up rate. Employees must feel comfortable with the products offered. How will OPM educate employees and annuitants as to the need for long-term care insurance and an individual's suitability for the product?

Ms. LACHANCE. We plan on having a very, very significant education campaign. We will be working with the Department of Defense to reach their communities and really try to get beyond the typical borders that we have with Federal employees and retirees.

We are going to use every possible medium. We are going to try to have an interactive tool on our Website that will walk people through the suitability of the product and whether it is beneficial for them to have this kind of insurance, and at what point in their lives they may want to buy it.

We will be using traditional paper. We will use CD–ROMs. We are going to train the trainer so that people who are involved in this process who work at various agencies across government will have the information they need to answer questions from potential customers.

So, we plan a full court press on the education front, knowing there is a direct correlation to the number of people who will ultimately purchase the policy.

Senator AKAKA. Again, I thank you very much for your responses. I can't help but recall in your statement that long-term care insurance is the answer to the kind of retirement problems that we have today.

Ms. LACHANCE. Thank you.

Senator AKAKA. Thank you very much, Mr. Chairman.

Senator COCHRAN. Thank you very much, Senator Akaka, for your participation in this hearing.

Ms. LaCHANCE, thank you and the members of your staff for your hard work in helping acquaint us with this legislation, the House-passed bill as well as your perspective on the provisions of the Senate bills that have been introduced and that are the subject of this hearing.

I am confident that what we have learned today will enable us to report out a bill at an early date. We hope that we can work out final legislation to submit to the President which he can sign and provide a new program for Federal employees that will be very beneficial to them and to their families.

Thank you very much. The hearing is adjourned.

[Whereupon, at 11:14 a.m., the Subcommittee was adjourned, to reconvene at the call of the Chair.]

APPENDIX

STATEMENT OF SENATOR SUSAN M. COLLINS
SUBCOMMITTEE ON INTERNATIONAL SECURITY,
PROLIFERATION, AND FEDERAL SERVICES
HEARING ON "LONG-TERM CARE INSURANCE FOR FEDERAL EMPLOYEES"
MAY 16, 2000

MR. CHAIRMAN, thank you for convening this morning's hearing to explore ways we can establish a program through which federal employees, members of the uniformed services, and both civilian and military retirees may purchase long-term care insurance.

This is a tremendously important issue. Long-term care is the major catastrophic health care expense faced by older Americans today, and these costs will only increase with the aging of the baby boomers. Clearly we must do more to encourage more Americans to prepare for their long-term care needs. As our nation's largest employer, the federal government should be the model for employers across the country. By giving its employees the opportunity to purchase long-term care insurance, the federal government can set the example for other employers whose workforce will be facing the same long-term care needs. We can also use the lessons learned through the federal experience to help other employers to offer this option to their workers.

MR. CHAIRMAN, most Americans mistakenly believe that Medicare or their private insurance policies will cover the costs of long-term care should they develop a chronic illness or cognitive impairment such as Alzheimer's disease. Unfortunately, far too many do not discover that they do not have coverage until they are confronted with the difficult decision of placing a frail parent or loved one in long-term care and face the shocking realization that they will have to cover the costs themselves.

With nursing home costs ranging from $40,000 to $70,000 a year, a chronic illness requiring long-term care can bankrupt a family and result in the taxpayers picking up the cost through Medicaid. Concerns about how to finance long-term care will only multiply as our population ages and is at greater risk of chronic disease. By 2030, the number of people over 65 will nearly double. Moreover, the fastest growing segment of our population is Americans over 85. These older Americans are at least five times more likely to reside in a nursing home than people who are 65.

Americans should think about and plan for their future long-term care needs just as they plan for their retirement or purchase life insurance to

protect their families. Private planning for long-term care through the purchase of long-term care insurance will not only provide families with greater financial security, but it will also ease the growing financial burden on Medicaid and strengthen the ability of that program to serve as a safety-net for those Americans most in need.

Moreover, private long-term care insurance provides Americans with a greater choice in the type of services they can receive. While government programs predominantly pay for nursing home stays, private long-term care policies provide a wide variety of services ranging from personal assistance with activities of daily living -- such as bathing, eating, and dressing -- to 24-hour skilled nursing care. Many policies also cover assisted living, home care, adult day care and respite care, giving seniors greater flexibility and enabling them to retain the dignity of choice in their retirement years.

During consideration of the Patients' Bill of Rights, I offered an amendment, which was approved by the full Senate, to expand the tax deductibility of long-term care insurance to encourage more Americans to purchase it. The provision — which is currently pending in conference -- will

permit individuals who purchase long-term care insurance on their own, without an employer subsidy, to deduct 100 percent of the cost.

I was also pleased to join with Senators Grassley, Mikulski and Cleland last month in introducing the Long-Term Care Security Act, which has been referred to this committee. This bill, which was approved by the full House last week, will make affordable private group long-term care insurance available to federal employees, members of the uniformed services, civilian and military retirees, and their families.

The bill sets up a process through which private companies will compete to provide long-term care insurance to the federal workforce. While federal employees would pay the full premium for their long-term care insurance, they will be able to pay at group discounted rates and the purchasing power of the federal workforce will enable them to get the best deal. Moreover, the bill extends the option of coverage to their spouses, parents, stepparents, parents-in-law and certain children age 18 and over.

Postal service employees from Maine were the first to alert me of the

need to provide viable long-term care insurance options to the federal workforce, and I am pleased to be able to respond to their concerns by sponsoring a bipartisan bill that stands a very good chance of becoming law. The Long-term Care Security Act will provide peace of mind to over 4.9 million current and former civilian and military employees and their families.

I suspect that Maine is typical of other states in that a surprisingly large share of its population would benefit from this bill. According to the Office of Personnel Management, there are 13,369 federal civilian employees in Maine, including 5,291 Postal Service employees. According to the Department of Defense, 2,507 active duty military personnel are located in the Pine Tree State. In addition, according to the Maine Bureau of Taxation, there are 14,100 federal civil service retirees and 13,800 military retirees in Maine.

In sum, over 43,000 Mainers *and their families* would be eligible for the long-term care coverage provided under this legislation. By encouraging these individuals to plan ahead for their retirement through the purchase of long-term care insurance, not only are we helping to ensure their future financial security, we are also giving them the assurance that they will be

cared for if they develop a chronic illness, disability, or cognitive impairment such as Alzheimer's disease. Moreover, it will be the care of their own choice and on their own terms.

In closing, I want to welcome Senators Grassley and Mikulski and thank them, as well as Senator Cleland, for all of their hard work and leadership on this issue.

Testimony of Senator Chuck Grassley

The Long-Term Care Security Act (S. 2420)

Tuesday, May 16, 2000

Mr. Chairman, thank you for the opportunity to testify today. As chairman of the Special Committee on Aging, I've learned how much people fear long-term care. The idea of going to a nursing home upsets people. The idea of paying for a nursing home stay is just as upsetting. That's for good reason. Any long-term care is labor-intensive. That makes it expensive.

I'm interested in easing the fears associated with long-term care. Insurance is an important way to build peace of mind. Long-term care insurance is increasingly available. It allows individuals to buy a policy that will cover their costs if they need long-term care. The younger the person, the lower the premium. It pays to plan early.

Despite its value, long-term care insurance is just catching on. The spark hasn't turned into a flame. Many Americans don't realize this product is available. Sometimes they presume, incorrectly, that the government will pay for all of their long-term care. The reality is Medicaid will pay for a nursing home stay, but only after people have given up their assets. Understandably, most people don't want to become impoverished in their old age.

So the question for policymakers is, how do we promote long-term care insurance? It makes sense to start with large employers. Insurance premiums often are group-based. The larger the group paying for insurance, the cheaper the rates for each participant. As a large employer, the federal government should help its employees to get long-term care insurance.

The bill Senator Mikulski and I introduced would put the federal government's purchasing power to work. This legislation would allow the government to negotiate group rates for long-term care insurance. Our bill would offer federal employees a way to buy long-term care insurance for themselves and their families at a reasonable, affordable rate.

From every indication, federal employees would welcome this opportunity. In my home state of Iowa alone, several people have contacted me about this issue. Here are a few of their stories:

- A 72-year-old man in Davenport retired from the Department of Defense in 1988 after 23 years. He and his wife have long-term care insurance. It costs them $2,700 a year. He'd like the option of a federal employee program because presumably, the price would be less.

- A 78-year-old widow in Indianola is retired from the Army. She has had long-term care insurance for five years but feels that her premium of $122 a month is high. She has children who could take care of her if needed, but there are others who may not.

- A Johnson couple both work for the federal government. They recently had two relatives die. Those relatives did not have long-term care insurance and spent all of their money on care. The surviving spouses ended were destitute. This couple hopes to avoid this situation, for themselves and for anyone else.

These Iowans deserve credit for being aware and informed about the potential risks associated with long-term care. Today, there are more than 20 million families who are caring for a family member at home with long-term care needs. Compare this number to just one million nursing home residents. Clearly, families are the experts when it comes to long-term care. These families know first-hand about the financial and emotional challenges that accompany long-term care. Unfortunately, in far too many cases, families are unprepared to cover the costs of long-term care and find themselves facing financial devastation.

We need to learn from these experiences. And, we need to take steps now to help families better prepare for long-term care. The enactment of the bill we're discussing today is an important first step in meeting this goal.

As our nation's largest employer, we have the opportunity now to help millions of American families plan responsibly for their retirement and gain the security that is necessary for achieving a high quality of life in retirement years. And, as our nation's largest employer, we can and should set an example for other employers as to the importance of long-term care in the lives of American families everywhere.

Mr Chairman, thank you for holding today's hearing on this important legislative item. I look forward to continuing to work with you on long-term care for federal employees. At this time, I am happy to take questions regarding S. 2420.

Testimony of Senator Barbara A. Mikulski Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services Hearing on Federal Employees Long-Term Care Insurance

I would like to thank you Mr. Chairman and the ranking member, Senator Akaka for holding this hearing and for all of your hard work on this issue. I would also like to thank Senator Grassley and Senator Cleland for their strong commitment to developing a bipartisan plan to provide federal employees with a long-term care insurance benefit.

Without long-term care coverage, no family has real security against the costs of chronic illness or disability. The Long-Term Care Security Act of 2000, S. 2420, does 4 things:

1. It will enable federal and military workers, retirees and their families to purchase long-term care insurance at group rates – projected to be 15% - 20% below the private market.

2. Creates a model that private employers can use to establish their own long-term care insurance program.

3. It will provide help to those who practice self-help by offering employees the option to better prepare for their retirement.

4. Reduces the reliance on federal programs, like Medicaid, so the American taxpayer benefits. Federal workers also benefit because they are paying lower premiums than they would get in the private market.

S. 2420 gives people choices, flexibility and security. Faced with a sick parent or spouse, most Americans currently do not have a lot of choices. They may choose, or be forced, to spend down their assets in order to qualify for Medicaid. They, or a spouse, may quit their job to do some of the caregiving themselves. Or, families may be forced to make the difficult choice of putting a child through college, or paying for long-term care for a parent. This legislation gives people better, more informed choices.

It also provides people with flexibility because beneficiaries will have different types of settings where they can receive care. They may choose to be cared for in the home by a family caregiver -- or they may need a higher level of care that nursing homes and home health care services provide. Different plan reimbursement options will ensure maximum flexibility that meet the unique health care needs of the beneficiary.

Long-term care insurance also provides families with some security. Family members will not be burdened by trying to figure out how to finance health care needs -- and beneficiaries will be able to make informed decisions about their future.

Some of us have faced the challenge of having a family member who needed long-term care. It is emotionally and financially difficult. But, imagine if you are a secretary working at the Social Security Administration, or a custodial worker here in the Senate. And a family member gets Alzheimers, or Parkinsons, or has some other illness that requires long-term health care. Your paycheck probably isn't big enough to cover the cost of home health visits, or a nursing home stay. So where do you go? Medicare doesn't cover long-term care so that is not an option. Should you quit your job so you can take care of your parent? But then what if you have a family of your own that you need to support? Or, what if you are trying to put a child through college?

Consider if you are a 61 year old employee at NASA and you are diagnosed with cancer. You might be able to retire, but the federal employees health benefits program does not cover long-term care – even for retirees. You may not have family to provide care and your pension probably isn't large enough to finance the high costs of long-term care. Where do you go?

Many Americans are currently facing these difficult decisions. Consider that:

- At least 5.8 million Americans aged 65 or older currently need long-term care

- As many as six out of 10 Americans have experienced a long-term care need

- 41 percent of women in caregiver roles quit their jobs or take family medical leave to care for a frail older parent or parent-in-law

- 80 percent of all long-term care services are provided by family and friends

These statistics represent the enormous financial and emotional costs associated with long-term care. This legislation is an essential step in providing opportunities for federal workers to plan ahead for retirement so they can take responsibility for their future long-term care needs.

Since my first days in Congress, I have been fighting to help people afford the burdens of long-term care. Ten years ago, I introduced legislation now known as Spousal Anti-Impoverishment. My bill changed the cruel rules of government that forced elderly couples to go bankrupt before they could get any help in paying for nursing home care.

Through the Older Americans Act, seniors have easier access to information and referrals they need to make good choices about long-term care. Like my colleague Senator Grassley, I am also working hard to create a National Family Caregivers Program so that families can access comprehensive information when faced with the dizzying array of choices in addressing the long-term care needs of a family member.

It is clear that we have a long-term care problem. The Office of Personnel Management estimates that 96,000 federal employees will be retiring in the year 2001. Providing federal employees with a long-term care insurance benefit is a down payment on a solution.

I am starting with federal employees for two reasons:

1. As our nation's largest employer, the federal government can be a model for employers around the country whose workforce will be facing the same long-term care needs.

2. Starting with the nation's largest employer also raises awareness and education about long-term care options.

One of my principles is "promises made should be promises kept." Federal employees and retirees have made a commitment to devote their careers to public service. In return, our government made certain promises to them. One important promise made was the promise of health insurance. The lack of long-term care for federal workers has been a big gap in this important promise to our federal workers. This legislation will close that gap and provide our federal workers and retirees with comprehensive health insurance

The long-term care crisis needs a long-term care solution. I am pleased to say that this bipartisan legislation puts an important down payment on this solution.

OPENING STATEMENT - SENATOR MAX CLELAND
Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services Hearing on Federal Employees Long-Term Care Insurance

May 16, 2000

"An invasion of armies can be resisted," Victor Hugo once said, "but not an idea whose time has come." The topic of today's hearing--A federal employer-based program for Long-Term Care Insurance -- is just such an idea. With an aging American population, the need for elder care and long-term care services is also rapidly growing. At this time, only about 7 million Americans have long-term care insurance policies. Long-term care insurance is relatively new and has only been sold about 20 years. Many Americans do not realize that health insurance and Medicare do not cover long-term care needs. And Medicaid covers these needs for only the impoverished with $80,000 or less in assets and $50 a month in income. It has also been reported that almost half of women in caregiver roles--forty-one percent--quit their jobs or take family medical leave to care for a frail older parent or parent-in-law. And consider: in just 11 years, the first wave of baby boomers turns 65. These Americans, having worked for 30 years or more, tell us they now fear retiring because they are unable to pay for assistive living needs. They have good cause for worry: The emotional and financial burdens for the American family can be staggering. Very few have had the opportunity to plan ahead, but we, the members of the Senate, have the perfect opportunity to help so many avoid the potential long-term care crisis.

The concept of Long-Term Care insurance was introduced a decade ago in the 101st Congress. Yet each session, this proposal has met with barriers imposed by partisan issues and unanswered questions about how such a model would work. With our growing numbers of retiring Federal and military employees, long-term care needs have increased as a national priority. Hubert Humphrey stated that "the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life--the sick, the needy, and the handicapped." As an injured 25 year-old Vietnam veteran, I was able to come out of the shadow of life with the help of the military and VA health care systems, family and friends. But I can certainly understand the concerns of Americans facing the dilemma of long-term care. Long-term care can be frightening and overwhelming when one is unprepared with the needed resources.

Among the many long-term care insurance issues, the main areas of debate have centered around competition and the Office of Personnel Management's (OPM) role in administering such a plan. Through our bipartisan effort, Senators Mikulski, Grassley, and I have collaborated with OPM, DoD, potential beneficiaries and the insurance industry in resolving these issues by creating a federal employer-based Long-Term Care Insurance program, which can be a model for the nation.

The House passed this measure on May 10th of this year. I am very pleased that this measure, now introduced in the Senate as S. 2420, proposes the largest employer-based long-term care insurance program in American history which includes federal employees, members of the Uniformed Services, Reservists and National Guard, retirees, spouses, surviving spouses, parents, parents-in-laws and adult children. This program has a potential of 13 million beneficiaries. It is my hope that we not lose our momentum and pass this measure soon. If enacted now, it will take at least 18 months or as long as the year 2002 for this program to be implemented. Our plan proposes age-based premiums, so each year we delay means higher premiums that beneficiaries will have to pay. I urge my colleagues to move this proposal and pass the Federal Employer Long-Term Care Insurance Program. Let's do more than tell working Americans to "weather the storm of long-term care." Let's change the climate for a brighter, more secure tomorrow.

Senator Max Cleland
Statements for the Record

Director LaChance, I do have concerns about some of the unique issues for some federal and military employees in this long-term care insurance proposal. As you know, some federal and military personnel have hazardous duty and many military retirees also have disability health benefits and war-related injuries. S.2218 was less restrictive than the current House and Senate proposals in these areas. I feel it is very important to offer a long-term care insurance benefit that is available to all federal and military employees and I ask that OPM continue to collaborate with the Department of Defense and the insurance industry during the contracting process for these populations.

STATEMENT OF SENATOR DANIEL K. AKAKA
SENATE GOVERNMENTAL AFFAIRS COMMITTEE
HEARING ON LONG-TERM CARE
May 16, 2000

Thank you Senator Cochran. I want to join you in welcoming our colleagues, Senator Grassley, the chairman of the Senate Special Committee on Aging, and Senator Mikulski, the ranking member of the HELP Aging Subcommittee, who, along with my good friend, Senator Cleland, have been essential in furthering the progress of the bills under discussion today. I also wish to express my deep appreciation to Janet Lachance, the director of the Office of Personnel Management, for the tremendous job that she and her team have done in seeing these bills through the legislative maze. I commend you all on a job well done because without your leadership, perseverance, and determination, I do not believe that we would be here today to discuss S. 2218, introduced by Senator Cleland, and S. 2420, offered by Senator Grassley.

I am proud to cosponsor both bills, which will make long-term care insurance available to federal employees, postal workers, members of the uniformed services, retirees, and eligible family members. As the ranking member of the Federal Services Subcommittee, with direct jurisdiction over these bills, I am hopeful that we will swiftly move legislation to address the long-term care insurance needs of federal and military personnel and their families.

The average age of the federal workforce is nearly 46 years old. There are over four million Americans over the age of 65 receiving assistance in their communities, and approximately 80 percent of those caregivers are related to the person receiving assistance. But demographics are changing and not as many people are living near relatives. Moreover, many Americans mistakenly believe that Medicare and their regular health insurance programs will pay for long-term care. Unfortunately, they do not. Although Medicaid provides some long-term care support, an individual generally must "spend-down" his or her income and assets to qualify for coverage.

It is essential that the federal government, as the nation's largest employer, offer its employees choices to provide for their retirement by ensuring financial stability in the future. Long-term care insurance is one such option.

The need for long-term care is great. By the year 2030, the number of Americans age 65 years or older will rise from 35.5 million in 2000 to 52.6 million. The cost of nursing home care now exceeds $40,000 per a year in many parts of the country. Home care visits for nursing or physical therapy runs about $100 per visit. In 1998, over $117 billion was spent on long-term care, including nursing homes, intermediate care facilities for the mentally retarded, and home health care services. This figure does not take into account that fully 80 percent of all long-term care services are provided by family and friends.

In my own state of Hawaii, 13.2 percent of the population are persons 65 years and older. Although Hawaii enjoys one of the highest life expectancies–79 years, compared to a national average of 75 years–the state's rapidly aging population will greatly impact available resources for long-term care, both institutional and from non-institutional sources. Hawaii's long-term care facilities are operating at full capacity. According to the Hawaii State Department of Health, the average occupancy rate peaked at 97.8 percent in 1994. But occupancy remains high. By 1997, the average occupancy dropped to 90 percent.

These statistics point to the overriding need to help American families provide dignified and appropriate care to their aging parents, relatives, and perhaps themselves. The demand for long-term care will only increase with each passing year, and federal, state, and local resources cannot cover the expected costs. Nursing home costs are expected to reach $97,000 by the year 2030. There must be a mix of public and private sources of financing long-term care.

By authorizing the Office of Personnel Management to design a long-term care insurance program for federal employees and military personnel, the federal government will serve as a model employer for state and local governments and the private sector. The two bills under discussion today will offer quality group long-term care insurance to the nation's federal employees, postal workers, members of the Foreign Service, Uniformed Services, retirees, their spouses, and other qualified relatives. These measures have broad-based support from employee organizations, the insurance industry, and the administration, which included the availability of long-term care insurance in the President's four-part initiative designed to address long-term health needs.

These bills allow OPM to use its market leverage to offer enrollee-paid, qualified private long-term care insurance to federal employees, military personnel, retirees, and their families at group rates, which are estimated to be 15 to 20 percent lower than individual rates. There would be options, including cash reimbursement for family care givers, tax exemptions under the Health Insurance Portability and Accountability Act (HIPAA), and portability benefits–features that will provide enrollees the ability to tailor policies to individual needs. I firmly believe that this program will also assist the federal government to compete with the private sector in recruiting and retaining qualified employees

I am pleased to cosponsor both bills, and I look forward to today's testimony.

STATEMENT OF
JANICE R. LACHANCE, DIRECTOR
OFFICE OF PERSONNEL MANAGEMENT

before the

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION
AND FEDERAL SERVICES
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

on

GROUP LONG-TERM CARE INSURANCE
FOR FEDERAL EMPLOYEES AND MEMBERS OF THE UNIFORMED SERVICES

MAY 16, 2000

MR. CHAIRMAN AND DISTINGUISHED MEMBERS OF THE COMMITTEE:

THANK YOU FOR CONVENING TODAY'S HEARING TO DISCUSS THE COLLABORATIVE EFFORTS OF THE ADMINISTRATION, THE CONGRESS, AND A BROAD RANGE OF STAKEHOLDERS TO DEVELOP A LONG-TERM CARE INSURANCE BILL.

FOR TOO MANY, OLD AGE HAS BECOME A TIME WHEN "GETTING AHEAD" AMOUNTS TO BARELY STAYING EVEN BECAUSE THEY LACK COVERAGE FOR LONG-TERM CARE. WE ARE ALL HERE TO CHANGE THAT FOR MILLIONS OF AMERICANS, BY BUILDING A STATUTORY FRAMEWORK FOR LONG-TERM CARE INSURANCE.

THE FACT THAT WE ARE HERE TODAY PROVES THAT PEOPLE ARE COMING TO TERMS WITH THE VERY REAL FACT THAT THE POPULATION OF THE UNITED STATES IS GETTING OLDER, A POPULATION THAT WILL NEED LONG-TERM CARE OPTIONS.

FAMILIES TODAY PROVIDE 80 PERCENT OF THE LONG-TERM CARE NEEDED BY OLDER PERSONS. LET ME PUT THAT IN PERSPECTIVE FOR YOU. YOU AND YOUR FAMILY CAN REASONABLY EXPECT TO SPEND MORE TIME CARING FOR AN OLDER RELATIVE THAN CARING FOR YOUR OWN CHILDREN. LET ME SAY THAT AGAIN: YOU CAN EXPECT TO SPEND MORE TIME CARING FOR YOUR PARENTS THAN FOR YOUR CHILDREN.

THIS IS AN ISSUE THAT IS VERY NEAR TO MY OWN HEART. I THINK ABOUT MY PARENTS AND HOW FORTUNATE I AM THAT THEY ARE LIVING LONG, FULL LIVES. BUT, HOW ARE THEY ARE GOING TO DEAL WITH THE SPIRALING INCREASES IN LONG-TERM CARE COSTS, IF AND WHEN THEY NEED IT?

AND HOW ARE ALL OF US GOING TO DEAL WITH THE HEART-WRENCHING CHOICES WE ARE SOMETIMES FORCED TO MAKE TO PROVIDE THE CARE AND COMFORT OUR LOVED ONES WILL NEED IN THEIR LATER YEARS?

HOW CAN WE KEEP THEM FROM BEING CRUSHED BY DEBT BECAUSE OF LONG-TERM CARE NEEDS? HOW CAN WE MAKE SURE THEY GET THE RIGHT CARE FOR THEIR NEEDS, AND THAT IT IS QUALITY CARE? AND HOW CAN WE MAKE SURE THEY GET ALL THE LONG-TERM CARE THEY NEED?

THE ANSWER, AS WE ALL KNOW, IS LONG-TERM CARE INSURANCE.

AS THE DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT, I CAN TELL YOU THAT FAR TOO MANY MEMBERS OF THE FEDERAL WORKFORCE ARE ALREADY STRUGGLING WITH THE CHALLENGES OF CARING FOR ELDERLY FAMILY MEMBERS.

SO, FOR SOME TIME NOW, OPM HAS BEEN WORKING WITH YOU -- AND OTHER STAKEHOLDERS -- TO MAKE LONG-TERM CARE INSURANCE AVAILABLE FOR CURRENT AND RETIRED FEDERAL EMPLOYEES, UNIFORMED SERVICES, AND THEIR ELIGIBLE FAMILY MEMBERS -- IN SHORT, FOR THE PEOPLE WE LOVE.

UNDER HR 4040, OPM WOULD HAVE THE AUTHORITY TO DESIGN A LONG-TERM CARE INSURANCE PACKAGE THAT OFFERS AN ARRAY OF LONG-TERM CARE SERVICES TO MEET THE NEEDS OF THE BROADEST POPULATION POSSIBLE.

THIS PROPOSAL WOULD ALSO PROVIDE THE FLEXIBILITY TO CONTRACT FOR BENEFITS WITH ONE OR MORE PRIVATE CARRIERS.

THIS MEANS THAT IT WOULD GIVE US THE FLEXIBILITY NEEDED TO OBTAIN THE BEST VALUE FOR THE ENTIRE FEDERAL FAMILY. AND CONTRACTS WILL BE AWARDED THE RIGHT WAY -- ON THE BASIS OF CONTRACTOR QUALIFICATIONS, PRICE, AND REASONABLE COMPETITION.

REMEMBER, BY USING THE SIZE OF THE FEDERAL FAMILY -- ABOUT 13 MILLION PEOPLE -- AS LEVERAGE, WE WILL BE ABLE TO PROVIDE THIS INSURANCE AT GROUP RATES EXPECTED TO BE 15 TO 20 PERCENT LOWER THAN INDIVIDUAL RATES, SO IT WILL BE A VERY GOOD DEAL.

IMMEDIATELY UPON ENACTMENT, WE WILL SEEK COMPETITIVE BIDS FOR LONG-TERM CARE INSURANCE -- BIDS THAT MEET STRICT QUALITY AND PRICE CRITERIA. WE WILL CAREFULLY EVALUATE ALL POTENTIAL INSURERS, AND CHOOSE THE CONTRACTOR THAT BEST MEETS THESE CRITERIA. THE PRODUCT WE OFFER WILL MEET ALL QUALIFIED LONG-TERM CARE INSURANCE REQUIREMENTS AND WILL GIVE CONSUMERS THE PROTECTIONS MANDATED BY THE INTERNAL REVENUE CODE. THESE INCLUDE GUARANTEED RENEWABILITY, PORTABILITY OF BENEFITS, AND NONFORFEITURE PROVISIONS.

PRIOR TO RUNNING AN OPEN SEASON, OPM INTENDS TO WORK WITH THE CONTRACTOR TO DEVELOP AND IMPLEMENT A CAMPAIGN TO EDUCATE POSSIBLE PARTICIPANTS ABOUT THE BENEFITS OF LONG-TERM CARE INSURANCE, AND OUR PROGRAM.

LEGISLATION

H.R. 4040, A COMPROMISE BILL INTRODUCED BY REPRESENTATIVE SCARBOROUGH ENTITLED THE "LONG-TERM CARE SECURITY ACT," WAS PASSED BY THE HOUSE OF REPRESENTATIVES ON MAY 9, 2000.

SENATOR GRASSLEY INTRODUCED A COMPANION BILL, S. 2420, ON BEHALF OF HIMSELF, SENATOR MIKULSKI, SENATOR COLLINS, SENATOR AKAKA, AND SENATOR CLELAND. YOUR COMMITTEE ALSO HAS BEFORE IT FOR CONSIDERATION S. 2218, "THE FEDERAL EMPLOYEES AND UNIFORMED SERVICES GROUP LONG-TERM CARE INSURANCE ACT OF 2000," INTRODUCED BY SENATOR CLELAND ON BEHALF OF HIMSELF, SENATOR MIKULSKI, SENATOR GRASSLEY, SENATOR AKAKA, SENATOR WARNER, SENATOR SARBANES, AND SENATOR ROBB.

S. 2218 AND BOTH H.R. 4040 AND S. 2420 REFLECT THE PRINCIPLES THAT THE ADMINISTRATION CONSIDERS CRITICAL. ANY OF THESE BILLS WILL BRING THE OPPORTUNITY FOR LONG-TERM CARE INSURANCE COVERAGE TO A BROAD

FEDERAL CIVILIAN POPULATION, INCLUDING POSTAL EMPLOYEES, AND TO ACTIVE AND RETIRED MEMBERS OF THE UNIFORMED SERVICES. QUALIFIED RELATIVES WILL BE ABLE TO ENROLL AS WELL.

WE BELIEVE THE HOUSE BILL, THE COMPANION SENATE BILL, AND S. 2218 ALL OFFER OPM THE LEGISLATIVE FRAMEWORK NECESSARY TO LAUNCH A SUCCESSFUL LONG-TERM CARE INSURANCE PROGRAM.

WHILE SOME MINOR DIFFERENCES REMAIN, CONCEPTUALLY THE TWO VERSIONS ARE VERY CLOSE. THEY REFLECT THE CONSENSUS THAT HAS BEEN BUILDING DURING THE PAST YEAR ABOUT PROVIDING QUALITY LONG-TERM CARE INSURANCE COVERAGE TO A VERY LARGE SEGMENT OF THE POPULATION.

WITHIN THE FRAMEWORK ANY OF THESE BILLS WILL PROVIDE, WE EXPECT TO OFFER A QUALITY LONG-TERM CARE INSURANCE PRODUCT AT AFFORDABLE PRICES WITH MINIMUM UNDERWRITING FOR THE ACTIVE FEDERAL AND MILITARY EMPLOYEE POPULATION. WE ARE COMMITTED TO KEEPING UNDERWRITING REQUIREMENTS FOR THE SPOUSES OF THE ACTIVE POPULATION AS SIMILAR AS IS PRACTICABLE. UNDER THESE CONDITIONS, WE ESTIMATE THAT WE CAN PROVIDE AN ATTRACTIVE LONG-TERM CARE INSURANCE PRODUCT. ADDING POSTAL EMPLOYEES AND MEMBERS OF THE UNIFORMED SERVICES TO THE GROUP ENHANCES OUR ABILITY TO ACHIEVE THE

SIGNIFICANT NEGOTIATED SAVINGS I MENTIONED EARLIER.

WE INTEND TO DESIGN A LONG-TERM CARE INSURANCE PRODUCT THAT PROVIDES FLEXIBLE BENEFIT OPTIONS TO MEET THE DIVERSE NEEDS OF OUR POPULATION. COVERAGE WILL BE PROVIDED FOR A RANGE OF SERVICES, INCLUDING PERSONAL CARE, HOME HEALTH CARE, ADULT DAY CARE, AND NURSING HOME CARE. INDIVIDUALS WITH SIGNIFICANT COGNITIVE IMPAIRMENT OR WHO ARE IN NEED OF ASSISTANCE WITH AT LEAST TWO ACTIVITIES OF DAILY LIVING, SUCH AS BATHING, DRESSING, AND EATING, WILL BE ELIGIBLE FOR BENEFITS.

PARTICIPANTS WILL PAY 100 PERCENT OF AN AGE-BASED PREMIUM, WHICH WILL BE PAID DIRECTLY BY THE INDIVIDUAL OR THROUGH THE EMPLOYING AGENCY TO THE CARRIER.

WE ESTIMATE THAT IMPLEMENTATION START-UP COSTS COULD BE AS MUCH AS $30 MILLION. ABOUT $1 MILLION WILL BE NEEDED ANNUALLY AFTER THAT FOR CONTRACT ADMINISTRATION.

I DO WISH TO POINT OUT THAT, CONSISTENT WITH THE FINANCING OF THE ADMINISTRATIVE COSTS OF MOST OTHER FEDERAL PROGRAMS, THE ADMINISTRATION'S LONG-TERM CARE INSURANCE PROPOSAL SOUGHT A DIRECT

AUTHORIZATION OF APPROPRIATIONS TO FINANCE THE ADMINISTRATIVE EXPENSES OF THIS NEW PROGRAM.

OUR HOPE IS THAT BY MAKING PRIVATE LONG-TERM CARE INSURANCE AVAILABLE TO THE FEDERAL FAMILY AT NEGOTIATED GROUP RATES, WE WILL, ONCE AGAIN, SERVE AS A MODEL TO OTHER EMPLOYERS ACROSS THE NATION.

IT WILL ALSO HEIGHTEN OUR NATION'S AWARENESS OF THE GROWING NEED FOR PEOPLE TO START PLANNING FOR THEIR OWN FUTURE LONG-TERM CARE NEEDS.

LONG-TERM CARE INSURANCE WILL GREATLY ENHANCE THE QUALITY OF LIFE FOR BOTH FEDERAL EMPLOYEES AND MEMBERS OF THE ARMED SERVICES.

IT WILL LET THEM CARE FOR THEIR AGING PARENTS, AND WILL LET THEIR CHILDREN CARE FOR THEM WITH DIGNITY AND FINANCIAL SECURITY. IT IS RIGHT THING TO DO. AND THIS IS THE RIGHT TIME TO DO IT.

I MUST ALSO NOTE THAT THE DEPARTMENT OF JUSTICE HAS RAISED A CONSTITUTIONAL CONCERN ABOUT THE REPORTING REQUIREMENTS CONTAINED IN SECTION 9003(d)(3) OF H.R. 4040 AND ITS COMPANION BILL, S. 2420. THIS CONCERN CAN BE EASILY ADDRESSED WITH THE LANGUAGE WE

HAVE PROVIDED TO THE SUBCOMMITTEE.

I URGE YOU TO GIVE THESE BILLS YOUR EARLIEST CONSIDERATION AND REACH CONSENSUS SO THAT THIS LEGISLATION CAN BE ENACTED AS QUICKLY AS POSSIBLE.

THIS CONCLUDES MY STATEMENT. AGAIN, THANK YOU FOR HOLDING THIS HEARING AND, ON BEHALF OF THE ENTIRE FEDERAL FAMILY, THANK YOU FOR HELPING TO ENACT THIS CRITICAL LEGISLATION. I WILL BE GLAD TO ANSWER YOUR QUESTIONS.

Answers to Questions for Janice Lachance, OPM Director
From
Senator Thad Cochran
Subcommittee Hearing on
Long-Term Care Insurance for Federal Employees
May 16, 2000

1. What can OPM do to ensure that the premiums remain reasonable and a good deal for federal employees as the program grows?

-- S. 2420 requires that premiums "shall reasonably and equitably reflect the cost of the benefits provided." How will OPM ensure that the premiums reflect the costs of the benefits?

A. OPM expects, based on input from insurance industry experts and data from other large employer group insurance offerings, to be able to offer group long-term care insurance rates that are 15-20% lower than the rates for individual policies in the private market. The growth of the program in the future depends, in part, on the repeated delivery of successful educational campaigns to prospective enrollees on the benefits of planning for their long-term care needs and enrolling at an early age. We would expect the growth of the program to have a beneficial, potentially lowering effect, on premium rates. OPM actuaries will be working with consultants to regularly evaluate initial and future premium rates to ensure that the age-based premiums reflect the true cost of the benefit.

2. Long-term care insurance premiums are usually based on a person's age. Will this also be the case in the federal plan, or will premiums also be based on an individual's health status?

A. Long-term care insurance premiums are established on the basis of "attained-age rating" which means the premium rate is based on the age of issue to the insured and also on the benefit option selected by an eligible individual. OPM will use this premium rate setting methodology in its program. For active employees and members of the Uniformed Services, we intend to offer long-term care insurance with minimal underwriting, i.e., typically a few questions relating to the individual's health status. For those individuals who cannot pass the minimal underwriting requirements, OPM intends to work with the insurance industry during the presolicitation phase of the contracting process to explore the development of other benefit options for those who may not be eligible for the standard benefit package.

3. S. 2420 states in §9002(e) that "the authority to revise premiums under this chapter shall be available only on a class basis." Can you please explain how this restriction will affect premium adjustments.

-- I am told that many insurance companies and state regulators have no definition of a "class" of beneficiaries. For purposes of this program, how will classes of beneficiaries be defined?
-- Will OPM be involved in approving premium adjustments for these classes?

A. Under the "guaranteed renewable" provision of the National Association of Insurance Commissioners (NAIC) Model Regulation, which is part of the requirements of Section 7702B of the Internal Revenue Code, an insurance carrier has no unilateral right to make any change in any provision of a long-term care insurance policy in force and cannot decline to renew it, except to revise the rates on a class basis. That is, the insurance carrier cannot arbitrarily raise the rate for an individual policyholder but must do it on the basis on an entire book of business. How "class" is defined will be clarified during the contracting process and incorporated within the master contract.

OPM will have the authority to negotiate all insurer proposals to increase rates, as well as a responsibility to our enrollees to ensure that rates reasonably reflect the cost of benefits.

4. To cover the reasonable expenses and implementation costs incurred by OPM in administering the program, S. 2420 authorizes OPM to borrow from the Federal Employees' Life Insurance Fund. Within the first year of the 7-year master contract, the carriers participating in the program must reimburse the Life Insurance Fund for all amounts used to cover the expenses of the long-term care insurance program.
-- Does this borrowing procedure place the Life Insurance Fund at risk in any way?
-- How will OPM ensure that all administrative costs of this program, including those incurred by employing agencies, are identified and reflected in the premiums charged to policyholders?

A. The borrowing of funds from the Life Insurance Fund for initial implementation costs is of a short-term nature and will not negatively impact the Fund. The premium rates will reflect the cost of benefits and administrative expenses of the carrier(s). Agencies will pay for the routine everyday administrative enrollment and processing activity for the long-term care insurance program out of their appropriated funds, as they do for all other benefits-related activities. They will not be reimbursed out of long-term care premiums.

5. On May 9, 2000, the Office of Management and Budget (OMB) issued a Statement of Administration Policy relating to H.R. 4040. This statement raises concerns about several issues addressed in the House bill, including the length of the master contracts, the accounting principles used by the program, and the information to be provided to potential enrollees.
-- What is OPM's view of the concerns raised in the Statement of Administration Policy?

A. OPM appreciates the concerns raised in the Statement of Administration Policy but does not see these issues as obstacles to the successful implementation of a long-term care insurance program. H.R. 4040 is a consensus bill, which reflects the views of numerous stakeholders we have worked with over the past year. The bill incorporates components stakeholders believe are necessary in a quality long-term care insurance program.

While the "informed decisionmaking" provisions of H.R. 4040 may appear prescriptive, they reflect our intent to provide as much information as possible to help people make informed choices. The survey of employers that the Lewin Group did for the Department of Health and Human Services confirms that the way employers communicate the long-term care insurance offering to employees is critical to the success of the program. We will plan, in consultation with insurance industry experts and our own research, to ensure that we are effective.

With respect to ensuring that insurance carriers adhere to appropriate accounting practices and principles, OPM has many administrative tools at its disposal to ensure that carriers comply with generally accepted accounting procedures and principles. We have statutory authority to request reports that meet our financial and reporting requirements, regulatory requirements, and applicable provisions of the Federal Acquisition Regulation (FAR) and our supplementation of the FAR to reflect the unique characteristics of the long-term care insurance industry.

6. OPM conducts annual "open seasons" for enrollments in the Federal Employees Health Benefits Program and periodic "open seasons" for the Employees Group Life Insurance Program.

-- Will OPM hold similar open enrollment periods under the long-term care insurance program?

-- What are your anticipated participation rates for each of the first five years?

-- Will new employees be permitted to participate immediately, or will they have to wait for a certain length of time?

A. Under H.R. 4040, OPM will conduct periodic coordinated enrollments for long-term care insurance. All eligible individuals will be able to enroll, subject to appropriate underwriting, during the first open enrollment for the new program. All new Federal employees and active members of the Uniformed Services will be immediately eligible to enroll, subject to minimum underwriting requirements.

Periodically, reminders will be sent to employees and active members of the Uniformed Services requesting them to review their entire benefits package, including their long-term care needs. The reminder will point out that they are still eligible to enroll in the program, but with more underwriting requirements.

From market surveys, we anticipate initial participation rates to range from 3 to 6 percent. During the contract negotiations process, OPM may request projected participation rates from carriers.

7. Market penetration will be vital to the success of this federal program. Does OPM have any concerns about participation rates being negatively affected because potential enrollees might be provided with too much information?

A. A number of surveys indicate that communication to employees is a critical factor in determining participation in a long-term care insurance program. Moreover, the effectiveness of the information communicated to potential participants is critical. Therefore, we plan to structure our educational campaign in a manner that stresses frequent, clear, and concise bits of information to individuals that will be easily manageable and understandable.

8. How will OPM or the employing agencies be involved in maintaining information on the long-term care insurance policyholders, including those who were never federal employees or annuitants, such as parents, spouses, stepparents, etc.?

A. Information on long-term care enrollment will be part of the agency records of active Federal employees and members of the Uniformed Services and retirees. Any enrollment information on others will be maintained by the insurance carrier(s).

9. The group of individuals eligible for coverage under this long-term care insurance plan is very diverse. How will OPM ensure that the insurance package meets the differing needs of all eligible participants?

A. Most prospective enrollees will not know the type or types of coverage they will need in the future. Therefore, OPM intends to design a long-term care insurance program that provides for individual flexibility in selecting the type of service desired as the need arises. These services will include nursing home care, home health care services, as well as alternatives such as assisted living facilities, adult day care, personal care, and homemaker services. We also intend to provide flexibility in the master insurance contract to add other services, as appropriate, as the market for long-term care services evolves.

10. Numerous options are available on typical long-term care insurance policies relating to such items as inflation protection, length-of-benefits, and non-forfeiture benefits.

-- Does OPM have the flexibility under S. 2420 to include these options as part of the long-term care insurance package offered to federal employees?

-- Does OPM intend to limit the number and types of options available as part of the package?

-- If so, which options does OPM expect to include?

A. S. 2420 requires that contracts issued under the new Chapter 90 meet the requirements of a qualified long-term care insurance contract as defined by Section 7702B of the Internal Revenue Code. Section 7702B requirements represent the base, or minimum requirements, that every qualified carrier must meet. Part of the requirements of Section 7702B include incorporation of provisions from the National Association of Insurance Commissioners' 1993 Model Act and Model Regulation. Some of the important standard provisions are: 1) Guaranteed renewability and noncancellability of contracts except for nonpayment of premium; 2) Waiver of premium for institutional care; 3) Portability of coverage; 4) Notification of third party in event of unintentional lapse; 5) Requirement to offer inflation protection; 6) Requirement to provide nonforfeiture protection.

OPM has the flexibility to add additional benefits to the minimum, core requirements, as well as offer choices among design options. OPM will be working with consultants and stakeholders during the presolicitation phase of the program to gather input on the best mix of options to offer employees as well as augmentation, if any, of the core benefit package. One option, for example, would allow prospective enrollees a choice of selecting among several daily benefit amounts for nursing home care.

11. During the course of administering this insurance program, disputes may arise regarding the payment of benefits or eligibility for coverage. In §9003(c), S. 2420 provides some guidance for the resolution of disputes between the carrier, the insured, and OPM.

-- What is OPM's opinion of the procedures set out in S. 2420?

-- Are the procedures adequate to protect the rights of employees who may feel they are not being treated fairly by the insurance carrier?

A. Section 9003(c) provides OPM a broad statutory framework for resolving claims disputes. Within that framework, OPM will request detailed information from prospective bidders on their proposed internal and external claims dispute procedures during the contract solicitation process, which will be evaluated against an objective standard. Additionally, insurance carriers will be required to give OPM operational definitions of when a participant becomes "benefit eligible" in terms of qualifying for long-term care services as defined under Section 7702B of the Internal Revenue Code. Both the master insurance contract(s) and implementing regulations will provide adequate protections to enrollees to ensure that they are treated fairly and objectively under the program.

12. Nonpayment of the premiums for a long-term care insurance policy typically results in the complete loss of coverage for the individual. Does OPM see the need for any provisions to ensure that the unintended nonpayment of premiums does not result in a loss of coverage.

A. As part of the master contract provision, OPM intends to incorporate a grace period provision for nonpayment of premium. The length of the grace period will be based on industry practice within the large employer group insurance market.

STATEMENT OF SENATOR CARL LEVIN ON LONG TERM HEALTH INSURANCE FOR FEDERAL EMPLOYEES
MAY 16, 2000 HEARING BEFORE THE SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION AND FEDERAL SERVICES

Long term health care is something for which no one likes to plan but it is a reality many of us will have to face. The Congressional Research Service estimates that about 5.2 million persons aged 65 and older and 3.5 million persons aged 18-64 currently receive long term health care assistance either in their community or in nursing homes. With the aging of the baby boomers, we expect the need for long term health care to grow substantially.

It currently costs approximately $40,000 a year to stay in a nursing home. Most people do not have $40,000 they can put aside for a year of nursing home care. Medicare pays for up to 100 days of nursing facility care and skilled nursing and home health care, but it does not otherwise pay for nursing home care. Medicaid provides coverage for nursing home care, and many people qualify for Medicaid's long term care benefits, but only after depleting most of their assets and income to pay for their care before they become eligible for coverage.

I want to share some statistics with you that demonstrate the gravity of this problem. The Congressional Budget Office estimates that in the year 2000 total national spending for long term health care services for the elderly alone will exceed $123 billion a year. Medicare and Medicaid together are expected to pay about $73 billion (59%) of this, with most of the rest being paid out of pocket by recipients of care and or their caregivers. Private insurance benefits will account for about 4% of total spending. By the year 2020, CBO projects total expenditures for long term health care to be $207 billion.

There is a definite and growing need for affordable and available long term health insurance. The problem is that most people do not think to buy long term care insurance, and when they do purchase it, it is very expensive because it is purchased in the individual market.

I am pleased that the hearing today addresses the issue of long term health care and how to make long term health care more affordable for our federal employees. I am pleased to be a cosponsor of S. 2218, The Federal Employees and Uniformed Services Group Long Term Care Insurance Act of 2000.

S. 2218 would authorize OPM to contract for long term care insurance on behalf of the federal government. The government will be able to offer more affordable coverage to federal employees by negotiating group rates, instead of individual rates. S. 2218 also provides an option that is both sensitive and sensible. The bill allows for payment of a cash reimbursement from the insurance company if a family caregiver decides that he or she will provide the required care. The bill applies to federal employees including active, retired and selected reserve members of the uniformed services and their family members and postal service employees.

OPM has estimated that approximately 300,000 participants would enroll in this program. OPM has also said that by purchasing at group rates, they can offer long term health care products at a 15-20% lower rate than in the individual market.

I look forward to this hearing and to marking up and eventually passing a long term health insurance bill in the Senate.

II

106TH CONGRESS
2D SESSION

S. 2420

To amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees, members of the uniformed services, and civilian and military retirees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 13, 2000

Mr. GRASSLEY (for himself, Ms. MIKULSKI, Ms. COLLINS, and Mr. CLELAND) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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A BILL

To amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance is made available to Federal employees, members of the uniformed services, and civilian and military retirees, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Long-Term Care Security Act".

SEC. 2. LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Subpart G of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 90—LONG-TERM CARE INSURANCE

"§ 9001. Definitions

For purposes of this chapter:

"(1) EMPLOYEE.—The term 'employee' means—

"(A) an employee as defined by section 8901(1); and

"(B) an individual described in section 2105(e);

but does not include an individual employed by the government of the District of Columbia.

"(2) ANNUITANT.—The term 'annuitant' has the meaning such term would have under paragraph (3) of section 8901 if, for purposes of such paragraph, the term 'employee' were considered to have the meaning given to it under paragraph (1) of this subsection.

"(3) MEMBER OF THE UNIFORMED SERVICES.—The term 'member of the uniformed services' means a member of the uniformed services, other than a retired member of the uniformed services.

"(4) RETIRED MEMBER OF THE UNIFORMED SERVICES.—The term 'retired member of the uniformed services' means a member or former member of the uniformed services entitled to retired or retainer pay.

"(5) QUALIFIED RELATIVE.—The term 'qualified relative' means each of the following:

"(A) The spouse of an individual described in paragraph (1), (2), (3), or (4).

"(B) A parent, stepparent, or parent-in-law of an individual described in paragraph (1) or (3).

"(C) A child (including an adopted child, a stepchild, or, to the extent the Office of Personnel Management by regulation provides, a foster child) of an individual described in paragraph (1), (2), (3), or (4), if such child is at least 18 years of age.

"(D) An individual having such other relationship to an individual described in paragraph (1), (2), (3), or (4) as the Office may by regulation prescribe.

"(6) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' refers to an individual described in paragraph (1), (2), (3), (4), or (5).

"(7) QUALIFIED CARRIER.—The term 'qualified carrier' means an insurance company (or consortium of insurance companies) that is licensed to issue long-term care insurance in all States, taking any subsidiaries of such a company into account (and, in the case of a consortium, considering the member companies and any subsidiaries thereof, collectively).

"(8) STATE.—The term 'State' includes the District of Columbia.

"(9) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—The term 'qualified long-term care insurance contract' has the meaning given such term by section 7702B of the Internal Revenue Code of 1986.

"(10) APPROPRIATE SECRETARY.—The term 'appropriate Secretary' means—

"(A) except as otherwise provided in this paragraph, the Secretary of Defense;

"(B) with respect to the Coast Guard when it is not operating as a service of the Navy, the Secretary of Transportation;

"(C) with respect to the commissioned corps of the National Oceanic and Atmospheric Administration, the Secretary of Commerce; and

"(D) with respect to the commissioned corps of the Public Health Service, the Secretary of Health and Human Services.

"§ 9002. Availability of insurance

"(a) IN GENERAL.—The Office of Personnel Management shall establish and, in consultation with the appropriate Secretaries, administer a program through which an individual described in paragraph (1), (2), (3), (4), or (5) of section 9001 may obtain long-term care insurance coverage under this chapter for such individual.

"(b) GENERAL REQUIREMENTS.—Long-term care insurance may not be offered under this chapter unless—

"(1) the only coverage provided is under qualified long-term care insurance contracts; and

"(2) each insurance contract under which any such coverage is provided is issued by a qualified carrier.

"(c) DOCUMENTATION REQUIREMENT.—As a condition for obtaining long-term care insurance coverage under this chapter based on one's status as a qualified relative, an applicant shall provide documentation to demonstrate the relationship, as prescribed by the Office.

"(d) UNDERWRITING STANDARDS.—

"(1) DISQUALIFYING CONDITION.—Nothing in this chapter shall be considered to require that long-term care insurance coverage be made available in the case of any individual who would be eligible for benefits immediately.

"(2) SPOUSAL PARITY.—For the purpose of underwriting standards, a spouse of an individual described in paragraph (1), (2), (3), or (4) of section 9001 shall, as nearly as practicable, be treated like that individual.

"(3) GUARANTEED ISSUE.—Nothing in this chapter shall be considered to require that long-term care insurance coverage be guaranteed to an eligible individual.

"(4) REQUIREMENT THAT CONTRACT BE FULLY INSURED.—In addition to the requirements otherwise applicable under section 9001(9), in order to be considered a qualified long-term care insurance contract for purposes of this chapter, a contract must be fully insured, whether through reinsurance with other companies or otherwise.

"(5) HIGHER STANDARDS ALLOWABLE.—Nothing in this chapter shall, in the case of an individual applying for long-term care insurance coverage under this chapter after the expiration of such individual's first opportunity to enroll, preclude the application of underwriting standards more stringent than those that would have applied if that opportunity had not yet expired.

"(e) GUARANTEED RENEWABILITY.—The benefits and coverage made available to eligible individuals under any insurance contract under this chapter shall be guaranteed renewable (as defined by section 7A(2) of the model regulations described in section 7702B(g)(2) of the Internal Revenue Code of 1986), including the right to have insurance remain in effect so long as premiums continue to be timely made. However, the authority to revise premiums under this chapter shall be available only on a class basis and only to the extent otherwise allowable under section 9003(b).

"§ 9003. Contracting authority

"(a) IN GENERAL.—The Office of Personnel Management shall, without regard to section 5 of title 41 or any other statute requiring competitive bidding, contract with

1 or more qualified carriers for a policy or policies of long-term care insurance. The Office shall ensure that each resulting contract (hereinafter in this chapter referred to as a 'master contract') is awarded on the basis of contractor qualifications, price, and reasonable competition.

"(b) TERMS AND CONDITIONS.—

"(1) IN GENERAL.—Each master contract under this chapter shall contain—

"(A) a detailed statement of the benefits offered (including any maximums, limitations, exclusions, and other definitions of benefits);

"(B) the premiums charged (including any limitations or other conditions on their subsequent adjustment);

"(C) the terms of the enrollment period; and

"(D) such other terms and conditions as may be mutually agreed to by the Office and the carrier involved, consistent with the requirements of this chapter.

"(2) PREMIUMS.—Premiums charged under each master contract entered into under this section shall reasonably and equitably reflect the cost of the benefits provided, as determined by the Office. The premiums shall not be adjusted during the term of the contract unless mutually agreed to by the Office and the carrier.

"(3) NONRENEWABILITY.—Master contracts under this chapter may not be made automatically renewable.

"(c) PAYMENT OF REQUIRED BENEFITS; DISPUTE RESOLUTION.—

"(1) IN GENERAL.—Each master contract under this chapter shall require the carrier to agree—

"(A) to provide payments or benefits to an eligible individual if such individual is entitled thereto under the terms of the contract; and

"(B) with respect to disputes regarding claims for payments or benefits under the terms of the contract—

"(i) to establish internal procedures designed to expeditiously resolve such disputes; and

"(ii) to establish, for disputes not resolved through procedures under clause (i), procedures for 1 or more alternative means of dispute resolution involving independent third-party review under appropriate circumstances by entities mutually acceptable to the Office and the carrier.

"(2) ELIGIBILITY.—A carrier's determination as to whether or not a particular individual is eligible to obtain long-term care insurance coverage under this chapter shall be subject to review only to the extent and in the manner provided in the applicable master contract.

"(3) OTHER CLAIMS.—For purposes of applying the Contract Disputes Act of 1978 to disputes arising under this chapter between a carrier and the Office—

"(A) the agency board having jurisdiction to decide an appeal relative to such a dispute shall be such board of contract appeals as the Director of the Office of Personnel Management shall specify in writing (after appropriate arrangements, as described in section 8(c) of such Act); and

"(B) the district courts of the United States shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any action described in section 10(a)(1) of such Act relative to such a dispute.

"(4) RULE OF CONSTRUCTION.—Nothing in this chapter shall be considered to grant authority for the Office or a third-party reviewer to change the terms of any contract under this chapter.

"(d) DURATION.—

"(1) IN GENERAL.—Each master contract under this chapter shall be for a term of 7 years, unless terminated earlier by the Office in accordance with the terms of such contract. However, the rights and responsibilities of the enrolled individual, the insurer, and the Office (or duly designated third-party administrator) under such contract shall continue with respect to such individual until the termination of coverage of the enrolled individual or the effective date of a successor contract thereto.

"(2) EXCEPTION.—

"(A) SHORTER DURATION.—In the case of a master contract entered into before the end of the period described in subparagraph (B), paragraph (1) shall be applied by substituting 'ending on the last day of the 7-year period described in paragraph (2)(B)' for 'of 7 years'.

"(B) DEFINITION.—The period described in this subparagraph is the 7-year period beginning on the earliest date as of which any long-term care insurance coverage under this chapter becomes effective.

"(3) CONGRESSIONAL NOTIFICATION.—No later than 180 days after receiving the second report required under section 9006(c), the President (or his designee) shall submit to the Committees on Government Reform and on Armed Services of the House of Representatives and the Committees on Governmental Affairs and on Armed Services of the Senate, a written recommendation as to whether the program under this chapter should be continued without modification, terminated, or restructured. During the 180-day period following the date on which the President (or his designee) submits the recommendation required under the preceding sentence, the Office of Personnel Management may not take any steps to rebid or otherwise contract for any coverage to be available at any time following the expiration of the 7-year period described in paragraph (2)(B).

"(4) FULL PORTABILITY.—Each master contract under this chapter shall include such provisions as may be necessary to ensure that, once an individual becomes duly enrolled, long-term care insurance coverage obtained by such individual pursuant to that enrollment shall not be terminated due to any change in status (such as separation from Government service or the uniformed services) or ceasing to meet the requirements for being considered a qualified relative (whether as a result of dissolution of marriage or otherwise).

"§ 9004. Financing

"(a) IN GENERAL.—Each eligible individual obtaining long-term care insurance coverage under this chapter shall be responsible for 100 percent of the premiums for such coverage.

"(b) WITHHOLDINGS.—

"(1) IN GENERAL.—The amount necessary to pay the premiums for enrollment may—

"(A) in the case of an employee, be withheld from the pay of such employee;

"(B) in the case of an annuitant, be withheld from the annuity of such annuitant;

"(C) in the case of a member of the uniformed services described in section 9001(3), be withheld from the basic pay of such member; and

"(D) in the case of a retired member of the uniformed services described in section

9001(4), be withheld from the retired pay or retainer pay payable to such member.

"(2) VOLUNTARY WITHHOLDINGS FOR QUALIFIED RELATIVES.—Withholdings to pay the premiums for enrollment of a qualified relative may, upon election of the appropriate eligible individual (described in section 9001(1)–(4)), be withheld under paragraph (1) to the same extent and in the same manner as if enrollment were for such individual.

"(c) DIRECT PAYMENTS.—All amounts withheld under this section shall be paid directly to the carrier.

"(d) OTHER FORMS OF PAYMENT.—Any enrollee who does not elect to have premiums withheld under subsection (b) or whose pay, annuity, or retired or retainer pay (as referred to in subsection (b)(1)) is insufficient to cover the withholding required for enrollment (or who is not receiving any regular amounts from the Government, as referred to in subsection (b)(1), from which any such withholdings may be made, and whose premiums are not otherwise being provided for under subsection (b)(2)) shall pay an amount equal to the full amount of those charges directly to the carrier.

"(e) SEPARATE ACCOUNTING REQUIREMENT.—Each carrier participating under this chapter shall maintain records that permit it to account for all amounts received under this chapter (including investment earnings on those amounts) separate and apart from all other funds.

"(f) REIMBURSEMENTS.—

"(1) REASONABLE INITIAL COSTS.—

"(A) IN GENERAL.—The Employees' Life Insurance Fund is available, without fiscal year limitation, for reasonable expenses incurred by the Office of Personnel Management in administering this chapter before the start of the 7-year period described in section 9003(d)(2)(B), including reasonable implementation costs.

"(B) REIMBURSEMENT REQUIREMENT.—Such Fund shall be reimbursed, before the end of the first year of that 7-year period, for all amounts obligated or expended under subparagraph (A) (including lost investment income). Such reimbursement shall be made by carriers, on a pro rata basis, in accordance with appropriate provisions which shall be included in master contracts under this chapter.

"(2) SUBSEQUENT COSTS.—

"(A) IN GENERAL.—There is hereby established in the Employees' Life Insurance Fund a Long-Term Care Administrative Account, which shall be available to the Office, without fiscal year limitation, to defray reasonable expenses incurred by the Office in administering this chapter after the start of the 7-year period described in section 9003(d)(2)(B).

"(B) REIMBURSEMENT REQUIREMENT.—Each master contract under this chapter shall include appropriate provisions under which the carrier involved shall, during each year, make such periodic contributions to the Long-Term Care Administrative Account as necessary to ensure that the reasonable anticipated expenses of the Office in administering this chapter during such year (adjusted to reconcile for any earlier overestimates or underestimates under this subparagraph) are defrayed.

"§ 9005. Preemption

"The terms of any contract under this chapter which relate to the nature, provision, or extent of coverage or benefits (including payments with respect to benefits) shall supersede and preempt any State or local law, or any regulation issued thereunder, which relates to long-term care insurance or contracts.

"§ 9006. Studies, reports, and audits

"(a) PROVISIONS RELATING TO CARRIERS.—Each master contract under this chapter shall contain provisions requiring the carrier—

"(1) to furnish such reasonable reports as the Office of Personnel Management determines to be necessary to enable it to carry out its functions under this chapter; and

"(2) to permit the Office and representatives of the General Accounting Office to examine such records of the carrier as may be necessary to carry out the purposes of this chapter.

"(b) PROVISIONS RELATING TO FEDERAL AGENCIES.—Each Federal agency shall keep such records, make such certifications, and furnish the Office, the carrier, or both, with such information and reports as the Office may require.

"(c) REPORTS BY THE GENERAL ACCOUNTING OFFICE.—The General Accounting Office shall prepare and submit to the President, the Office of Personnel Management, and each House of Congress, before the end of the third and fifth years during which the program under this chapter is in effect, a written report evaluating such program. Each such report shall include an analysis of the competitiveness of the program, as compared to both group and individual coverage generally available to individuals in the private insurance market. The Office shall cooperate with the General Accounting Office to provide periodic evaluations of the program.

"§ 9007. Jurisdiction of courts

"The district courts of the United States have original jurisdiction of a civil action or claim described in paragraph (1) or (2) of section 9003(c), after such administrative remedies as required under such paragraph (1) or (2) (as applicable) have been exhausted, but only to the extent judicial review is not precluded by any dispute resolution or other remedy under this chapter.

"§ 9008. Administrative functions

"(a) IN GENERAL.—The Office of Personnel Management shall prescribe regulations necessary to carry out this chapter.

"(b) ENROLLMENT PERIODS.—The Office shall provide for periodic coordinated enrollment, promotion, and education efforts in consultation with the carriers.

"(c) CONSULTATION.—Any regulations necessary to effect the application and operation of this chapter with respect to an eligible individual described in paragraph (3) or (4) of section 9001, or a qualified relative thereof, shall be prescribed by the Office in consultation with the appropriate Secretary.

"(d) INFORMED DECISIONMAKING.—The Office shall ensure that each eligible individual applying for long-term care insurance under this chapter is furnished the information necessary to enable that individual to evaluate the advantages and disadvantages of obtaining long-term care insurance under this chapter, including the following:

"(1) The principal long-term care benefits and coverage available under this chapter, and how those benefits and coverage compare to the range of long-term care benefits and coverage otherwise generally available.

"(2) Representative examples of the cost of long-term care, and the sufficiency of the benefits available under this chapter relative to those costs. The information under this paragraph shall also include—

"(A) the projected effect of inflation on the value of those benefits; and

"(B) a comparison of the inflation-adjusted value of those benefits to the projected future costs of long-term care.

"(3) Any rights individuals under this chapter may have to cancel coverage, and to receive a total or partial refund of premiums. The information under this paragraph shall also include—

"(A) the projected number or percentage of individuals likely to fail to maintain their coverage (determined based on lapse rates experienced under similar group long-term care insurance programs and, when available, this chapter); and

"(B)(i) a summary description of how and when premiums for long-term care insurance under this chapter may be raised;

"(ii) the premium history during the last 10 years for each qualified carrier offering long-term care insurance under this chapter; and

"(iii) if cost increases are anticipated, the projected premiums for a typical insured individual at various ages.

"(4) The advantages and disadvantages of long-term care insurance generally, relative to other means of accumulating or otherwise acquiring the assets that may be needed to meet the costs of long-term care, such as through tax-qualified retirement programs or other investment vehicles.

"§ 9009. Cost accounting standards

"The cost accounting standards issued pursuant to section 26(f) of the Office of Federal Procurement Policy

Act (41 U.S.C. 422(f)) shall not apply with respect to a long-term care insurance contract under this chapter.".

(b) CONFORMING AMENDMENT.—The analysis for part III of title 5, United States Code, is amended by adding at the end of subpart G the following:

"90. Long-Term Care Insurance .... 9001.".

SEC. 3. EFFECTIVE DATE.

The Office of Personnel Management shall take such measures as may be necessary to ensure that long-term care insurance coverage under title 5, United States Code, as amended by this Act, may be obtained in time to take effect not later than the first day of the first applicable pay period of the first fiscal year which begins after the end of the 18-month period beginning on the date of enactment of this Act.