



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

June 3, 2011

The Honorable Charles W. Boustany, Jr., M.D.
U.S. House of Representatives
Washington, DC 20515

Dear Representative Boustany:

Thank you for your letter concerning the Community Living Assistance Services and Supports (CLASS) program. The goal of the CLASS program, passed by Congress last year, is to help Americans prepare for their long-term services and support needs by offering them an affordable, voluntary insurance program providing benefits that would be financed entirely through private premiums. The need for an affordable mechanism to help Americans plan prudently for their future is well-established and guides the Department as we seek to implement the law.

As you know, I am required to determine whether the program is actuarially sound before proceeding to offer insurance to consumers. Our program development work is guided by that principle. As I said in recent testimony, we will not implement the program unless it is solvent and sustainable, as required by the statute. There are certain statutory requirements for the CLASS program that cannot be adjusted to enhance program stability. For example, CLASS must be a voluntary program, with no medical underwriting, and benefits must be fully paid for with premiums collected.

On the other hand, as referenced in your letter, I have publicly discussed other improvements currently being considered that could enhance program stability over the 75-year period required by the law. These include increasing the employment and earnings requirements, indexing premiums to rise along with benefits, and minimizing the possibility that people will "game" the rules e.g. by serially skipping payments and re-enrolling at a later time while facing minimal or no penalty. These possible plan modifications are consistent with the types of improvements that have been recommended by outside experts such as the American Academy of Actuaries. The Department will analyze each option on its merits and its consistency with the law and its intent.

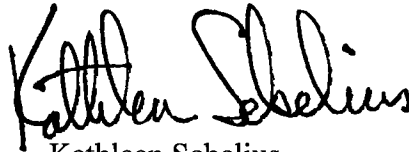
For that reason, I appreciate your sharing with me the Congressional Research Service's analysis of the minimum earnings requirement provisions in the statute, and we will closely evaluate their assessment. Moreover, I take seriously the questions you pose in your April 15, 2011 letter. The questions you raise are among the issues that the Department continues to consider as we evaluate and develop possible plans and benefits.

The law directs me to designate a benefit plan by October 2012, after developing three alternative benefit plans, in consultation with actuaries and other experts and presenting these plans to an advisory council composed of consumers, caregivers, and individuals with technical

expertise. These three alternative benefit plans will be published as part of a notice of proposed rulemaking. The regulatory process will follow well-established procedures, as governed by the Administrative Procedure Act. Those procedures include the issuance of a proposed rule that contains a detailed description of the proposed regulation, the legal authority for the proposed regulation, and the proposed regulation itself. Once the proposed rule is published, there will be an opportunity for public comment, usually at least 60 days. We are targeting publication of a notice of proposed rulemaking this fall. In order to maximize public accountability and understanding of any program specifications we propose through the regulatory process, we intend to describe the statutory basis for each of the specifications in the proposed rule.

I look forward to continuing to work with you as we move forward with this process. An identical response has been provided to the co-signers of your letter.

Sincerely,



Kathleen Sebelius

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