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AMERICAN ACADEMY *of* ACTUARIES

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June 15, 2018

The Honorable Frank Pallone Jr.  
Ranking Member  
Committee on Energy & Commerce  
U.S. House of Representatives  
Washington, D.C. 20515

Re: Medicare Long-Term Care Services and Supports Act of 2018

Dear Ranking Member Pallone:

On behalf of the American Academy of Actuaries<sup>1</sup> Long-Term Care (LTC) and Disability Committee, I would like to offer comments on the May 1 discussion draft of the *Medicare Long-Term Care Services and Supports Act of 2018*. These comments focus primarily on the structure of the proposed long-term care reform.

We encourage policymakers to improve the affordability and accessibility of health insurance coverage and have published a number of issue briefs in this area (highlighted at the end of this letter) that provide additional detail related to the specific comments below.

We appreciate this opportunity to provide input on these unique actuarial issues. We encourage you to consider our comments as you work to advance this proposal. Our comments are offered in the context of our long-established mission to inform public policy deliberations in an objective and unbiased way.

## **Background**

The increasing growth in state Medicaid budgets and the LTC needs of a growing elderly population, combined with the low level of penetration into the potential market by private LTC insurance, has increased interest in proposals to reform the way LTC is coordinated and financed.

In 2016, the Academy's LTC Criteria Work Group published an issue brief, *Essential Criteria for Long-Term Care Financing Reform Proposals*, providing criteria for evaluating reforms

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<sup>1</sup> The American Academy of Actuaries is a 19,000-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

within LTC, such as proposed by the *Medicare Long-Term Care Services and Supports Act of 2018*. Evaluating the proposal in terms of the issue brief points out questions around the areas of financing, benefits, and coordination with other programs.

## **Financing**

- The proposal does not address the financing of the program. Because financial soundness and sustainability are essential for any LTC system, program financing should be addressed. In particular, it would be appropriate to examine the expected pattern of costs from a comprehensive LTC program, that those costs will be increasing rapidly with the proportion of the population at advanced ages where most needs for LTC arise, and that the costs of those particular LTC services provided are expected to be increasing over time. The proposal is improved by a plan that determines both the program costs and the funding for those costs.

## **Benefits**

- The proposal would provide funding for a Qualified Individual Long-Term Care Benefit Account (“LTC Account”) established on behalf of each eligible individual, which can be used to pay for a variety of potential long-term services and supports needs enumerated in the proposal, including some that are not usually found in private insurance or public programs, such as routine maintenance costs and payments to family members. High utilization for discretionary benefits in private insurance suggests the need for extensive experimentation and thorough demonstrations before incorporating these benefits into a national program.
- To assure the benefits are used appropriately, consideration should be given to requiring all payments from the LTC Account to be according to a plan of care by an authorized professional and updated periodically, as specified in regulations to be promulgated by the secretary of Health and Human Services. This will provide professional guidance to the individual for the appropriate use of the LTC Account and reduce the likelihood of fraud and abuse.
- The proposal provides benefits that vary based on the level of functionality. In view of the limited experience with insuring classes other than those mandated by the *Health Insurance Portability and Accountability Act* (HIPAA), this variability should be carefully considered due to difficulty in administration as well as potential lack of adequate data to price such a benefit.
- With the proposed geographic variation in costs, consideration will need to be given to potential unintended consequences if significant variation in benefits by region drives behavior changes.
- Requiring assistance with three activities of daily living rather than two in order to qualify for benefits (common in current LTC insurance contracts) will help to keep costs down.

## Coordination with other programs

- The proposal is expected to supplement and not supplant other program coverages such as Medicaid. States may be expected to adopt provisions to curtail Medicaid coverage beyond two-year benefit periods, resulting in significant cost impacts to the proposal. Similarly, private insurers may be expected to limit coverage so as not to overlap. In addition, inconsistencies may arise between LTC insurance and program benefits for stays beyond two years.

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We appreciate the opportunity to provide these comments. Though our comments focused on these three specific areas, we would be happy to discuss other details and considerations in the proposal at your convenience. If you have any questions or would like to discuss further, please contact David Linn, senior health policy analyst, at [linn@actuary.org](mailto:linn@actuary.org) or 202-785-6931.

Sincerely,

Allen J. Schmitz, MAAA, FSA  
Chairperson, Long-Term Care/Disability Committee  
American Academy of Actuaries

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For more information, see related publications from the American Academy of Actuaries:

- [\*Essential Criteria for Long-Term Care Financing Reform Proposals\*](#) (November 2016)
- [\*Understanding Premium Rate Increases on Private Long-Term Care Insurance Policyholders\*](#) (June 2016)
- [\*Long-Term Care Insurance: Portability\*](#) (October 2015)
- [\*Long-Term Care Insurance: Product Design Flexibility\*](#) (October 2015)
- [\*Long-Term Care Insurance: Pricing Flexibility\*](#) (October 2015)
- [\*International Perspective on Long-Term Care\*](#) (October 2015)