U.S. SENATE COMMITTEE ON

Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

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Grassley Works to Improve Long-Term Care Options for Elderly, Disabled

WASHINGTON — Sen. Chuck Grassley, Chairman of the Senate Committee on Finance, today introduced bipartisan legislation to help make long-term care more affordable, accessible and advantageous for older Americans and individuals with disabilities.

Sens. Evan Bayh of Indiana and Hillary Clinton of New York joined Grassley in sponsoring the proposal.

"The goal is to improve the quality of life and help older and disabled Americans enjoy greater independence," Grassley said. "This legislation would expand access to health care services, create a system that promotes home-and community-based care, empower more individuals to fully participate in community life, and create incentives to help people afford the lifestyle they've worked so hard to achieve long into retirement."

Grassley said that the bill introduced today is intended to compliment his efforts to enact two other legislative initiatives known as the Family Opportunity Act and Money Follows the Person.

The text of the Chairman's floor statement regarding the bill and a summary of the legislation follows here.

Floor Statement of U.S. Senator Chuck Grassley of Iowa
Chairman of the Committee on Finance
Introduction of the Improving Long-term Care Choices Act
Friday, July 29, 2005

Mr. President, I am pleased to join my colleagues Senator Bayh and Senator Clinton in introducing the Improving Long-Term Care Choices Act. This legislation sets forth a series of proposals aimed at improving the accessibility of long-term care insurance and promoting awareness about the protection that long-term care insurance can offer. It also seeks to broaden the availability of the types of long-term care services such as home- and community-based care, which many folks prefer to institutional care.

Mr. President, before I begin my discussion of the merits of the legislation that I am introducing today, I want to take this opportunity to once again emphasize my commitment to enacting the Family Opportunity Act. I have worked to get the Family Opportunity Act enacted for many years now.

I have been motivated to work so hard because I have been deeply moved by a number of stories from families, both from my state of Iowa and elsewhere, who have had to turn down promotions, or even put their child with a disability up for adoption in order to secure for these children the medical services they so desperately need.

The Family Opportunity Act would provide a state option to allow families with disabled children to "buy in" to the Medicaid program; establish mental health parity in Medicaid Home and Community Based Waiver programs; establish Family to Family Health Information Centers and restore Medicaid eligibility for certain SSI beneficiaries.

As part of the on-going negotiations relative to the Family Opportunity Act, many stakeholders have agreed that a modification of a feature of the President's New Freedom Initiative, a demonstration program known as "Money Follows the Person" should be enacted along with the Family Opportunity Act. Money Follows the Person allows the Secretary to provide grants to states to increase the use of home and community based care and provides states a financial incentive for the first year to do so.

I want stakeholders in the disability community as well as the many organizations who support the Family Opportunity Act to understand that the legislation I am introducing today compliments rather than supplants my efforts to enact Family Opportunity Act and Money Follows the Person. I believe that we should provide a wide array of options to the states to encourage them to identify and eliminate barriers to community living including access to consumer direction and respite care.

Mr. President, long term care services can be prohibitively expensive. Just one year in a nursing home can cost well over $50,000. In many cases, individuals deplete their savings and resources paying for long-term and ultimately qualify for Medicaid coverage. Right now, Medicaid pays for the bulk of long-term care services in this country. In 2002 alone, we spent nearly $93 billion on long-term care services under Medicaid. With our aging population, one thing is clear: spending will only increase.

When most people think about purchasing long-term care insurance, they think, "that's something I can put off until tomorrow." We need to change the perception because the older you are when you first buy coverage, the more expensive the premiums are.

Our legislation calls for the Secretary to educate folks about the protection that long-term care insurance can offer. We envision people having the opportunity to compare policies available in their states. Among other means, this could be accomplished through an internet website for example.

Making people aware of long-term care insurance won't go very far though, unless we make some other changes to enhance the value and protection that long-term care insurance can bring. Our bill takes several steps in this regard.

First, the legislation would require that states disregard benefits paid under a long-term care insurance policy when determining eligibility for Medicaid. Second, it incorporates a series of consumer protections recommended by the National Association of Insurance Commissioners (NAIC) into the definition of 'qualified long-term care services.' Individuals who purchase a policy that have these consumer protections will be eligible for an above the line tax deduction and a tax credit for out of pocket expenses made by caregivers. Third, the bill would expand the long-term care partnership program, which currently operates as a demonstration in four states. The long-term care partnerships combine private long-term care insurance with Medicaid coverage once individuals exhaust their insurance benefits. Several states would like to pursue their own long-term care partnerships and this legislation will enable them to do that

The Improving Long-term Care Choices Act also builds on the President's New Freedom Initiative by taking further steps toward removing the "institutional bias" in Medicaid - giving States the option of providing home and community-based services as part of their State Medicaid Plan.

In doing so, the bill gives states the flexibility to design long-term care benefits that will reduce the reliance on costly institutional settings and meet the needs of elderly and disabled individuals who overwhelmingly wish to remain in their homes and communities.

In his New Freedom Initiative announced shortly after taking office, President George W. Bush outlined a plan to tear down barriers preventing people with disabilities from fully participating in American society.

The President also endorses the idea of shifting Medicaid's delivery system towards one that promotes cost-effective, community-based care instead of one weighted so heavily towards institutional settings.

This legislation also challenges us to think beyond funding and program silos and directs the Secretary to address administrative barriers that impede the integration of acute and long-term care services. The Secretary also must develop recommendations for statutory changes that will make it easier for states to offer better coordinated acute and long-term care services.

The Improving Long-Term Care Choices Act is consistent with our ideals about families, individual choices in health care and financial responsibility. This bill aims high. But it is sorely evident that we need to think creatively and comprehensively, even boldly, if we hope to make the type of inroads in promoting the availability of good long-term care insurance policies and in rebalancing the institutional bias in long-term care services that no longer reflects the needs and preferences of many stakeholders.

Mr. President, the Improving Long-Term Care Choices Act is a good bill. The American Network of Community Options and Resources, the Arc & United Cerebral Palsy Disability Policy Collaboration, and the National Disability Rights Network, the United Spinal Association, and the Association of University Centers on Disabilities support the bill. I urge my colleagues to do the same.

I ask unanimous consent to include a section by section summary of the legislation and letters of support be included in the record after my statement. I thank the Chair and yield the floor.

SUMMARY OF THE IMPROVING LONG-TERM CARE CHOICES ACT

TITLE I: LONG-TERM CARE INSURANCE CONSUMER PROTECTIONS

Subtitle A

Section 101: State Medicaid Plan requirements regarding Medicaid eligibility determination, long-term care insurance reciprocity, and consumer education

Requires each state in its Medicaid plan to exclude benefits, including assigned benefits, paid under a qualified-long term care policy in determining income for purposes of determining eligibility for medical assistance.

Requires that states with a long-term care insurance partnership program to meet requirements for reciprocity to with other long-term care insurance partnership states. Reciprocity rules to be developed as specified in section 103.

Requires the Secretary to educate consumers on the advisability of obtaining long-term care insurance that meets federal standards and the potential interaction between coverage under a policy and federal and state health insurance programs.

Section 102: Additional consumer protections for long-term care insurance

Establishes additional consumer protections with respect to long-term care insurance policies based on the October 2000 National Association of Insurance Commissioners (NAIC) model regulations including non-cancellability, prohibitions on limitations and exclusions, extension of benefits, continuation of conversion coverage, discontinuance and replacement, prohibitions on post-claim underwriting, inflation protection, and prohibitions on pre-existing condition and probationary periods in replacement policies or certificates.

Issuers of long-term care insurance policies must also comply with NAIC model provisions related to disclosure of rating practices, application forms and replacement coverage, reporting, filing requirements for marketing, suitability, standard format outline of coverage, and delivery of shopper's guide.

Issuers must comply with model act policies related to right to return, outline of coverage, certificates under group plans, monthly reports on accelerated death benefits, and incontestability period.

Applies to policies issued more than 1 year after enactment.

Section 103: Expansion of State Long-term Care Partnerships

Permits the expansion of long-term care partnership insurance policies to all states.

Requires all new partnership policies to be "qualified long-term care insurance policies" defined as a policy that: (1) disregards any assets or resources in the amount equal payments made under the policy; (2) requires the holder, upon the policy's effective date, to reside in the state or a state with a qualified long-term care partnership; (3) includes the consumer protections specified in 7702B of the tax code as amended by Section 102 (additional consumer protections); (4) requires compound inflation protection; and (5) requires that any agent selling such policies receive training and demonstrate knowledge of such policies.

Medicaid asset protection would apply in an equal amount to the insurance benefit paid under the policy, referred to as a dollar-for-dollar model. [The four states (NY, IN, CT, and CA) that currently offer long-term care partnership policies that are not dollar-for-dollar may continue to offer those policies.]

Directs the Secretary to set standards for reciprocity in conjunction with states, insurers, NAIC, and other groups as deemed necessary by the Secretary not later than 12 months after enactment to provide for the portability of long-term care partnership policies from one partnership state to another partnership state

Establishes minimum uniform reporting requirements.

Section 104: National Clearinghouse for Long-term Care Information

Provides for: (1) development of a national clearinghouse on long-term care information to educate consumers on the importance of purchasing long-term care insurance, and, where appropriate, to assist consumers in comparing long-term care insurance policies offered in their states, including information on benefits, pricing (including historic increases in premiums) as well as other options for financing long-term care and (2) establishment of a website to facilitate comparison of long-term care policies.

Authorizes such sums a necessary for the clearinghouse in fiscal year 2006 and each year thereafter.

Subtitle B

Section 121: Treatment of premiums on qualified long-term care insurance contracts

Provides individuals an above-the-line tax deduction for the cost of their qualified LTC insurance policy (as defined by HIPAA, section 7702B(b)). Phases in applicable percentage of the deduction based on the number of years of continuous coverage under a qualified LTC policy.

Section 122: Credit for tax payers with long-term care needs

Provides applicable individuals with LTC needs or their eligible caregivers a $3000 tax credit to help cover LTC expenses. An applicable individual is one who has been certified by a physician as needing help with at least 3 activities of daily living, such as eating, bathing, dressing. LTC tax credit would be phased-in over 4 years as follows: $1000 in 2005, $1500 in 2006, $2000 in 2007, $2500 in 2008, and $3000 in 2009 or thereafter. The credit phases out by $100 for each $1000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount set at $150,000 for a joint return and $75,000 for an individual return.

Section 123: Treatment of exchanges of long-term care insurance contracts

Includes a waiver of limitations, allowing individuals to make claims if there are changes to law.

TITLE II: MEDICAID HOME AND COMMUNITY-BASED SERVICES OPTIONAL BENEFIT

Section 201: Medicaid Home and Community-Based Services Optional Benefit

Provides states with a new option to offer home and community-based services to Medicaid-eligible individuals without obtaining a federal waiver. Under this option states may include one or more home and community-based services currently available under existing waiver authority. States would also be permitted to allow individuals to choose to self-direct services. Under this option, states must establish a more stringent eligibility standard for placement of individuals in institutions, than for placement in a home and community-based setting. States would be permitted to offer a limited benefit consisting of home and community-based services only, to certain populations not otherwise eligible for Medicaid, but not to exceed individuals whose income exceeds 300% of SSI income and resource standards. At states option, provides presumptive eligibility for aged, blind and disabled for home and community-based services. If enrollment under the state plan exceeds state projections, the state would be permitted to change eligibility standards to limit enrollment for new applicants, while grandfathering those individuals already receiving services.

TITLE III: INTEGRATED ACUTE AND LONG-TERM CARE SERVICES FOR DUALLY ELIGIBLE INDIVIDUALS

Section 301: Removal of barriers to integrated acute and long-term care services for dually eligible individuals

Directs the Secretary, in collaboration with directors of State Medicaid programs, health care issuers, managed care plans, and others to issue regulations removing administrative barriers that impede the offering of integrated acute, home and community-based, nursing facility, and mental health services, and to the extent consistent with the enrollee's coverage for such services under Part D, prescription drugs. The Secretary also must submit recommendations to address legislative barriers to offering integrated services. The Medicare Payment Advisory Commission (MedPAC) will comment on the Secretary's recommendations.